

Circular 118.

September, 1907.

Board of Health of the State of New Jersey.

Public Health Laws.

TRENTON, N. J.:
THE JOHN L. MURPHY PUBLISHING CO., PRINTERS.
1907.

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Board of Health of the State of New Jersey.

C. F. BRACKETT, *President.*

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|-------------------------|---|---|---|---|---|-----------------------------------|
| THE SECRETARY OF STATE, | . | . | . | . | . | } <i>Members ex-officio.</i> |
| THE ATTORNEY-GENERAL, | . | . | . | . | . | |
| THE STATE GEOLOGIST, | . | . | . | . | . | |
| WILLIAM H. MURRAY, | | | | | | GEORGE P. OLCOTT, |
| LABAN DENNIS, | | | | | | WILLIAM M. LANNING, |
| | | | | | | HENRY B. RUE. |
| | | | | | | HENRY MITCHELL, <i>Secretary.</i> |

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 Medical inspection of schools.

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THIS COLLECTION OF THE LAWS OF NEW JERSEY, RELATING TO THE PROTECTION OF THE PUBLIC HEALTH, COMPILED IN THE OFFICE OF THE ATTORNEY-GENERAL BY THEODORE BACKES, ESQ., PRESENTS THE IMPORTANT ACTS OF THE LEGISLATURE BEARING UPON THIS SUBJECT. IT IS DESIGNED TO REPLACE CIRCULAR 96, WHICH WAS PUBLISHED IN 1899, AND IS NOW OUT OF PRINT. THE ARRANGEMENT UNDER GENERAL TOPICS, WITH MARGINAL NOTES AND INDEX, RENDERS THE PROVISIONS OF THESE LAWS AVAILABLE FOR CONVENIENT REFERENCE.



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Public Health Laws of the State of New Jersey.

STATE AND LOCAL BOARDS OF HEALTH.

An Act to establish in this State boards of health and a bureau of vital statistics, and to define their respective powers and duties.

Approved March 31, 1887.

I. STATE BOARD OF HEALTH AND BUREAU OF VITAL STATISTICS.

1. That there shall be in this State a State Board of Health to be known as "The Board of Health of the State of New Jersey," which shall be composed of the Secretary of State, the Attorney-General and the State Geologist, as ex-officio members, and seven persons to be appointed from time to time as hereinafter directed, by the Governor; each of the appointed members shall hold office for the term of seven years, and their respective terms of office shall be so arranged that the term of office of not more than one member shall expire in any one year; if the office of any appointed member shall for any cause become vacant before the expiration of the term for which such member was appointed, the same shall be filled by the Governor for the unexpired term only; *provided, however,* that whereas a State Board of Health has heretofore been created in this State and is now in fact constituted and organized in the manner hereinbefore prescribed, the members of said board heretofore created shall constitute and shall henceforth be deemed and taken to be "The Board of Health of the State of New Jersey," established by this act, that the appointed members of the said board heretofore created shall respectively continue to hold office as members of the board established under this act until the expiration of the terms for which they were originally appointed, and that the secretary and all other officers of said board heretofore created, shall continue to hold their respective offices under this act for the term for which they were originally appointed or elected.

Gen. Stat., p. 1634.
State Board of Health, how constituted and appointed.

Proviso.

2. That the said State board shall take cognizance of all matters affecting health and life among the citizens of this State, shall make sanitary investigations and inquiries in respect of the people, the causes of diseases and especially of epidemics and the sources of mortality, and the effects of localities, employments, conditions and circumstances on the public health; they shall also make investigations and in-

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chattels and
persons in
transporta-
tion, and of
cars, boats,
vehicles, etc.

quiries into the sanitary condition of any State, county, city or township almsnouse, asylum, prison, penitentiary, jail, re-form school, schoolhouse or other public building, and of tene-ments, manufactories and workshops; the said State board shall also constitute a state bureau of vital statistics who shall, as such board, cause to be made such tabular classification, and such index and transcription of the vital facts shown by the certificates of marriages, births and deaths now by law returned to the Secretary of State, as may be useful to the said board or to the officers thereof in preparing for diffusion among the people of the State such facts as may bear upon public health; the said board shall fix and determine the amounts to be paid for the classification, index and transcription above required, which amounts shall not exceed the sum of four cents for each certificate returned to the Secretary of State, and shall be paid out of the annual appropriations made to said State board as hereinafter provided.

3. That the said State board shall appoint a president, who shall call meetings as often as once in three months and also whenever in his judgment it shall be necessary, and when-ever requested so to do by three members of the board; they shall also elect a secretary to serve for a term of five years, who shall be a physician of at least five years' practice in this State, who shall also be medical superintendent of vital statistics, and who shall superintend the performance of the duties prescribed by law in relation to the State Board of Health and the classification, index and transcription of vital facts hereinbefore required to be made; the compensation of the said secretary shall be the sum of twenty-five hundred dollars per annum for the services required of him under the provisions of this act as such secretary and medical super-intendent, which sum the Treasurer of this State is hereby authorized to pay from any money in the treasury not other-wise appropriated upon a warrant drawn by the said State Board of Health, signed by its president and attested by its secretary; the said State Board of Health shall also in the month of December in each year make a report to the Governor of their investigations and inquiries for the year, with such communications and suggestions concerning the public health as they may deem proper.

4. The State Board of Health shall have a right to cause a sanitary inspection to be made of all chattels and persons in transportation through the State, and of the cars, boats and other vehicles in which such chattels or persons may be trans-ported, and the said board shall have the same right of in-spection, procedure and control in this respect as is or may be conferred by law upon the local board of health or local authorities in any township or city, or other local municipal government in this State, and when in the judgment of said board it may be necessary, the said board may require or cause an examination of vessels, cars, boats or other vehicles and of all baggage and persons, to be made, and may enforce

such detention or disinfection as they may deem necessary for the public safety.

5. That the said State board may appoint inspectors and assign them to such duties as the interests of the public health in any part of the State may require, and to aid in the execution of the laws relating thereto; and they may require the said inspectors to investigate the local epidemics, nuisances, needs for drainage, neglect of sanitary law, the condition of schoolhouses, tenements, manufactories and workshops, of public buildings belonging to the State, or to any county or city therein, and of the persons confined or employed therein; and the State board, its agents and appointees shall have the same right of inspection in regard to all matters affecting the public health as has been or may be conferred upon local boards of health; the inspectors appointed by the State Board of Health shall be paid by the board out of the moneys appropriated therefor such sum as may be fixed and determined by the board.

Board may appoint inspectors and to assign duties.

6. That every physician in this State making official reports to the State Board of Health through the bureau of vital statistics shall be entitled to receive by mail, from the Treasurer of the State, a copy of the annual report of the State Board of Health and of the bureau of vital statistics.

Physicians making official reports entitled to copy of annual report.

7. That the annual appropriation of the State Board of Health, for the purpose of making sanitary investigations and inquiries in respect to the people, the causes of disease, epidemics and the sources of sickness and mortality, the effect of locality, employments, conditions and circumstances on the public health, and for the purpose of making inquiry and investigation into the sanitary condition of any State, county, city or township almshouse, asylum, prison, penitentiary, jail or reform school, and for such other expenses as the said board are by this act authorized to incur, shall be the sum of six thousand dollars, in addition to such appropriations as are authorized by law to be made for the purpose of preventing contagious and infectious disease among animals and the adulteration of foods and drugs; all moneys appropriated for the use of said board shall be paid by the Treasurer of the State on the order of the Comptroller upon requisition made by the board, signed by the president and secretary thereof and approved by the Governor.

Annual appropriation to the State board.

Amount.

8. That in case any emergency of epidemic or of peril to the public health shall, in the judgment of the State Board of Health, require the expenditure of a larger amount of money than is herein appropriated, the facts that warrant such expenditure, in the judgment of the board, shall be presented by it to the Governor, Comptroller and Treasurer of the State, and if, in their judgment, additional expenditure is needed to enable the State Board of Health to meet such emergency, they are hereby authorized to add to the appropriation made by virtue of the authority hereby given, such sum as in their judgment may be necessary therefor.

Additional appropriation in cases of emergency, by whom and how made.

II. LOCAL BOARDS OF HEALTH.

Local boards of health, how appointed and constituted.

Proviso.

Who to constitute the local boards of health.

Failure of town committee to appoint physician, State board to make the appointment.

Who to constitute the local boards on failure to appoint.

9. That there shall be a local board of health in every city, borough, town and other local municipal government, in this State, which shall be composed of not less than five nor more than seven members, who shall be appointed in such manner and hold their respective offices for such terms, not exceeding four years, as the board or aldermen, common council or other governing body may by ordinance provide; *provided, however*, that in cities containing a population of over one hundred thousand inhabitants such boards may consist of not less than five nor more than nine members; the terms of office of the members of said local boards shall be so arranged that the terms of not more than three members shall expire in any one year; if any vacancy shall occur in any of said local boards, it shall be filled in the same manner in which the original appointments were made, but for the unexpired term only. (a)

10. That there shall be a local board of health in every township of this State, which shall be composed of the members of the township committee, the township assessor and one physician to be appointed by the township committee; such physician shall hold office for the term of three years from the time of his appointment and until his successor shall be appointed; if any township committee shall not appoint a physician as aforesaid on or before the first day of June, eighteen hundred and eighty-seven, or if they shall neglect or fail to make such appointment within ten days after the death, removal or resignation of any physician, or after the expiration of his term of three years aforesaid, it shall be lawful, in any of said cases, for the State Board of Health, at any time after the expiration of either of the periods above limited for appointment by the township committee, and before the township committee shall have made an appointment, to appoint a physician as a member of said local board of health, who shall hold his office for the term of three years from the time of his appointment by said State board and until his successor shall be appointed; if, however, in any township, no physician shall be appointed, as hereinabove required, either by the township committee or by the State Board of Health, then and in such case the members of the township committee and the assessors shall constitute the local board of health of such township, and shall continue to constitute such board, until such appointment as aforesaid shall be made; in case of the death, removal or resignation of any assessor before the time of electing his successor, the township clerk shall succeed such assessor as a member of such local board, and shall continue as such member until an assessor shall be duly elected or appointed, and such township clerk

(a) The establishment by the Legislature of general and local boards of health is not to be regarded as detracting from the general powers of municipal governments unless that legislative intent clearly appears. *Nicoulin v. Louvry*, 20 Vr. 391.

shall take charge of and make all returns of marriages, births and deaths as required by law of assessors; in any township within whose limits a city, borough, town or other form of local municipal government now exists, or hereafter shall exist, the jurisdiction of the local board of the township shall extend only to such parts of the township as are, or shall be, outside of the territorial limits of such city, borough, town or other local municipal government, but in every other case the jurisdiction of the township board shall be co-extensive with the limits of the township.(a)

11. That every local board of health now existing in any city, borough, town or other local municipal government in this State, which is, in fact, constituted and organized in the manner required by the ninth section of this act, and every local board of health now existing in any township which is in fact constituted and organized in the manner required by the tenth section of this act, shall be deemed, held and taken to be a local board of health, created under the provisions of this act, and every such board is hereby perpetuated and continued, and is hereby authorized, without re-organization to exercise all the powers and required to perform all the duties applicable to local boards mentioned in this act; the members of every such board shall continue in office until the expiration of the terms for which they were originally appointed; every ordinance which has heretofore been passed by any common council, or other governing municipal body, creating, establishing or organizing, or providing for the creation, establishment or organization of any such local board of health as aforesaid, shall be deemed, held and taken to be of the same force and validity as if it had been passed under the provisions and authority of this act; and all ordinances, rules and regulations heretofore adopted or passed by any such local board of health as aforesaid, which might be adopted or passed under the authority of this act, shall continue to be the ordinances, rules and regulations of such local board, and shall be of the same force and validity as if they had actually been adopted or passed under the provisions and authority of this act.

12. That the said local boards of health shall have power to pass, alter or amend ordinances,(a) and make rules and regulations in regard to the public health within their several jurisdictions, for the following purposes, but such ordinance shall have three readings before its final passage, and at least one week shall intervene between the second and third readings of said ordinance and a notice stating the title of said ordinance

Local boards now existing to be deemed and held to be the local boards.

Authorized to exercise all the powers under this act.

Ordinances heretofore passed validated, etc.

Powers of local boards to pass ordinances, make rules, regulations, etc.
As amended March 29, 1892.
P. L. 1892, p. 345.

(a) The requirement that there shall be a board of health in every township, and an examination of the law, indicate that their duties cannot be discharged without the expenditure of money. It is, therefore, the duty of a town meeting to raise funds to meet such expenditure. *Allen v. Township of Bernards*, 28 Vr. 303.

(a) The regulations required to be passed by ordinance are such as prescribe general rules with respect to the several matters entrusted to local boards, and a particular permit authorizing the doing of that previously authorized by ordinance may be granted by resolution. *Courter v. Newark*, 25 Vr. 325.

and the date when it passed its second reading, shall be published at least one week prior to its final passage in at least one newspaper published in the township, city, town, borough or other local municipal government, if any newspaper is published therein, and if there be no newspaper published therein, then in some newspaper of the county circulating in such township, city, town, borough or other local municipal government:

I. To aid in the enforcement of the law as to the adulteration of all kinds of food and drink, and to prevent the sale or exposure for sale of any kind of meat or vegetable that is unwholesome or unfit for food;

II. To define and declare what shall constitute nuisances in lots, streets, docks, wharves, vessels and piers and all public or private places;

III. To prevent the spreading of dangerous epidemics or contagious diseases, and to declare that the same has become epidemic, and to maintain and enforce proper and sufficient quarantine whenever deemed necessary;

IV. To regulate, control and prohibit the keeping or slaughtering of all kinds of animals;

V. To regulate, control and prohibit the accumulation of offal and all decaying or vegetable substances;

VI. To prohibit and remove any offensive matter or abate any nuisance in any public highway, road, street, avenue, alley or other place, public or private, and to cause the removal at the expense of the owner;

VII. To compel the return of all births, deaths and marriages by physicians, midwives, nurses, clergymen, magistrates and other persons professionally officiating at such death, birth or marriage;

VIII. To secure the sanitary condition of tenement-houses, jails, prisons and all public buildings;

IX. To regulate, control or prohibit the cleaning of sewers, the dumping of garbage, the filling of sunken lots or marsh lands, and to provide for the filling up of such lots or lands;

X. To regulate and control the method of construction, the location, the method or manner of emptying or cleaning, and the frequency of cleaning cesspools and privies; (a) (b)

XI. To regulate and control the mode of connection of house drainage and plumbing with outside sewers, cesspools or other receptacles;

XII. To protect the public water-supply and prevent the pollution of any stream of water or well, the water of which is used for domestic purposes, and to order not to be used or closed any well, the water of which is polluted or detrimental to the public health;

(a) The power to designate a place for the deposit of night soil, although not given to health boards in express terms, is necessarily incident to the general jurisdiction of such bodies over cesspools and the removal of their contents. *Courter v. Newark*, 25 Vr. 325.

(b) Local boards of health have ample power to prevent spreading of contagious skin diseases in barber shops. *La Porta v. Board of Health*, 42 Vr. 88.

XIII. To remove persons infected to a suitable place, in case of contagious or infectious disease, where, in the judgment of the board, such removal is necessary and can be accomplished without any undue risk to the person or persons diseased, and to disinfect the premises when deemed necessary;

XIV. To regulate the burial and disinterment of human bodies.

13. Said local boards shall, within their respective jurisdictions, examine into all nuisances, foul or noxious odors, gases or vapors, water in which mosquito larvæ breed, and all causes of disease which may be known to them or brought to their attention which, in their opinion, are injurious to the health of the inhabitants therein, and shall cause the same to be removed and abated; whenever such nuisance, noxious odors, gases or vapors, water in which mosquito larvæ breed, or cause of ill health or disease shall be found on public property or on a highway, notice shall be officially given by the said board to the person in charge thereof officially, and such persons shall be notified to remove and abate the same; and if there be failure or neglect to comply with such notice, the mode of procedure shall be the same as is hereinafter provided in case of private individuals.

Abating
nuisances by
order board
of health.

As amended
March 28,
1904.

P. L. 1904, p.
247.

When on
public
property.

14. Where such nuisances, noxious gases or vapors, water in which mosquito larvæ breed, or cause of ill health or disease shall be found on private property, the said board shall cause notice thereof to be given to the owner or owners to remove and abate the same at his own expense, within such time as the said board may deem proper; a duplicate of the notice so given shall be left with one or more of the tenants or occupants of the premises; if the owner resides out of the State or cannot be reached with notice speedily, notice left at the house or posted on the premises shall be deemed sufficient, and if the owner or owners thus notified shall not comply with such notification or order of the local board of health within the time specified, the board shall proceed to abate such nuisance and remove the cause of such foul and noxious odors, gases or vapors, water in which mosquito larvæ breed, or other thing detrimental to the public health, and such board shall have a right to recover by action of debt the expenses incurred by such board in the abatement or removal, from any person or persons who shall have caused or allowed such nuisance, source of foulness, water in which mosquito larvæ breed, or cause of sickness, hazardous to the public health, and from any owner, tenant or occupant of the premises who, after notice as aforesaid, shall have failed to remove such nuisance, source of foulness, water in which mosquito larvæ breed, or cause of sickness, hazardous to the public health, within the time specified in such notice; and in case such board of health shall fail to recover by such action an amount sufficient to defray such expenses, or if it shall be deemed inexpedient to bring such suit, they may present a bill, certified by such board, or a majority thereof, to the local municipal authorities, and such bill shall be audited and paid

Abating
nuisances on
private
property.

As amended
March 28,
1904.

P. L. 1904, p.
247.

Expenses.

by the city, borough, town, township or other local municipal government in and for which such board is organized, in the same manner as the bills for the ordinary current expenses for such municipality are paid.

No injunction to be issued to enjoin proceedings until board is notified.

When suits to recover damages against board are not to be maintained.

15. That no injunction shall issue out of any of the courts of this State to stay, stop or enjoin proceedings, or to prevent any local board of health from proceeding with the removal of any alleged nuisance, source of foulness, or cause of sickness, hazardous to the public health, until such board has been duly notified to appear and be present at the hearing of such application, and has an opportunity to be heard thereon; and no suit shall be maintained in any of the courts of this State to recover damages against any such board, its officers or agents on proceedings had and maintained by them to abate and remove such nuisances and cause of disease, unless it shall be shown in such suit that the alleged nuisance and cause of disease did not exist, and that the same was not hazardous and prejudicial to the public health, and unless it be shown that the said board acted without reasonable and probable cause to believe that such nuisance did exist, and that such foul or noxious odors, gases, vapors or other cause was in fact prejudicial and hazardous to the public health.

Ordinances may be in form of code. Ordinances and code to be published.

16. That in the making of ordinances any local board of health may adopt and ordain the same in the form of a code, or each ordinance may be separate and apart in itself, and in all cases said board shall cause such code, ordinance or ordinances to be published for at least two weeks, once in each week, in one or more newspapers printed and circulating in the city, township, borough, town, or other local municipal government in which such code, ordinance or ordinances shall take effect; and in case no newspaper shall be printed in such township, or in such city, borough, town or other local municipal government, then the said code or ordinances shall be posted in five public places therein and published for the said period of time in some newspaper published in the county and circulating in such township, or in such city, borough, town or other local municipal government.

Code or ordinance may be amended or repealed.

17. That such boards of health may amend or repeal any part or section of such code or ordinances as they may see fit, such amendments to be passed and amended as aforesaid, and every code, ordinance, amendment or repealer shall take effect in thirty days after the date of the first publication.

Boards of health may prescribe penalty for violations of code, etc. Proceedings in case of violations of code and ordinances.

18. That any such board of health may prescribe a penalty for the violation of any of their ordinances or sections of any code they make and ordain as aforesaid, not to exceed one hundred dollars and not less than ten dollars; (a) and every district court in any city, and every justice of the peace in any county, and any police justice or recorder in any city, is hereby empowered, on oath or affirmation made according to the law

(a) Municipal body may legally prescribe a maximum penalty (within the limits of the charter), and leave it to the trial court to adjust the penalty to the circumstances of the case. *Atlantic City v. Crandol*, 38 Vt. 488.

that any person or persons has or may have violated any section of the code, or any of the ordinances of any such board as aforesaid, to issue process at the suit of any such board as aforesaid, either in the nature of a summons or warrant, against the person or persons so charged, which process shall, when in the nature of a warrant, be returnable forthwith, and when in the nature of a summons shall be returnable in not less than one nor more than ten entire days; such process shall state what section of the code or ordinance of any such board is alleged to have been violated by the defendant or defendants; and on the return of such process, or at any time to which the trial shall have been adjourned, the said court, justice of the peace, police justice or recorder shall proceed to hear the testimony and to determine and give judgment in the matter, without the filing of any pleadings, and a copy of the ordinance or section of the code alleged to have been violated, certified to under the hand of the clerk or president of the board, and under the seal of such board, if it have a seal, shall be taken as full and legal proof of the existence of such ordinance or code, and that all requirements of law in relation to the ordaining, publishing and making of the same, so as to make the same legal and binding, have been complied with, unless the contrary be shown; and the said court, justice of the peace, police justice or recorder shall, if judgment be rendered for the plaintiff, forthwith issue execution against the goods and chattels and persons of the defendant or defendants, and said court, justice of the peace, police justice or recorder is further empowered to cause such defendant who may refuse or neglect to pay the amount of the judgment rendered against him, and all costs and charges incident thereto, unless an appeal is granted, to be committed to the county jail for any period not exceeding ninety days; and said court, justice of the peace, police justice or recorder is further empowered in case any such defendant shall have been twice convicted, within the space of six months, of the violation of the same ordinance, and due proof of the same is made, in addition to the payment of the appropriate penalty, to cause said defendant to be imprisoned in the county jail or county workhouse, with or without hard labor, for any number of days not exceeding one for each dollar of the penalty. (a) (b)

19. That no district court of any city, justice of the peace, police justice or recorder, shall have jurisdiction of any offenses against any code or ordinances of any board of health, which offenses shall take place outside of the territorial jurisdiction of such district court, justice of the peace, police justice or recorder, as such territorial jurisdiction is now or may hereafter be established by law.

Jurisdiction
of court.

(a) The common pleas has no jurisdiction to hear an appeal from the judgment of a police justice in a suit for a penalty for violating an ordinance of a board of health. *Holtzworth v. Newark*, 21 Vr. 85.

(b) Proceeding for recovery of a penalty under this section is a civil action. *Board of Health v. Cattell*, 44 Vr. 516. A jury trial is not permitted under this health act. *McEwen v. Board of Health*, 32 Vr. 468.

Officers to serve and execute process.

20. That the officers to serve and execute any process issued out of any court under this act shall be the officers authorized by law to serve and execute process in said courts and before such magistrates and officers as aforesaid, including constables and police officers.

Local boards of health authorized to declare epidemics, etc.

21. That the board of health of any township, or any city, borough, town or other local municipal government in this State, shall have the right to declare any epidemic or cause of ill health to be so injurious or hazardous as to make it necessary to close any or all of the public or private schools in the limits of such township, or of such city, borough, town or other local municipal government; but in case of public schools, the same shall not be closed except by the direction of the board of education, school trustees or other body having the control or direction thereof; any such board of education, school trustees or other body having control of public schools may in such case cause any or all of the schools under their control to be closed, if, in their judgment, such closing be necessary for sanitary purposes.

Boards of education may close public schools and prohibit the attendance of teachers and scholars.

22. That any board of education, school trustees or other body having control of the public schools may, on account of the prevalence of any contagious disease, or to prevent the spread of such contagious disease, prohibit the attendance of any teacher or scholar upon any school under their control, and may specify the time during which such teacher or scholar shall remain away from such school, and may prohibit the attendance of any unvaccinated child who has not had the small-pox, and shall also have the power to decide how far re-vaccination shall be required if a case or cases of small-pox have occurred in the city or district.

Unvaccinated children to be designated on enrollment.

23. That at the enrollment of the children by the clerk of the school districts in the townships of this State, or by other proper officers in the cities or municipalities, inquiry shall be made as to how many of the children within the school age are unvaccinated, and the same shall be designated by a mark on the said roll, and in case any are found to be unvaccinated whose parents desire them to be protected from small-pox, and who, in the judgment of the board of education or the trustees of the school districts, are unable to pay therefor, the clerk of said district, or other authorized person, may give to the said child or children a permit to appear at the office of any regularly-licensed physician in said district or municipality to be vaccinated, and such physician, on presentation of said permit, with his certificate appended thereto that the said vaccination has been by him successfully performed, shall be entitled to receive from the said township or local municipal authority the sum of fifty cents for each case so certified, and the same shall be paid in the same manner that other bills for current expenses are paid therein.

Children may be vaccinated at expense of township.

Powers not dependent.

24. That the power herein given to local boards of health to abate nuisances, sources of foulness, or causes of sickness, hazardous to the public health, shall not depend upon whether

such boards have exercised their power to pass, alter or amend ordinances in relation to the public health.

25. That such local boards shall have power to specify any contagious disease or diseases in case of death from which no public funeral shall be had, and to prohibit such public funeral under a penalty to be imposed, not to exceed fifty dollars, and in case of the threatening or prevalence of an epidemic, to prohibit such public funeral of persons dying with the particular disease or diseases then prevalent; and they shall also have power to prohibit such public funeral in any case in which the attending physician shall by writing so advise, or in any case in which two reputable physicians in the same district or municipality certify that they believe that the interests of the public health require such restriction.

Boards to specify disease from which no public funerals shall be had and to prohibit same.

26. That any such local board may determine whether or when it is necessary for a physician or other person in attendance on the sick to notify said board of the existence of contagious or infectious diseases; where such notification is required, the local board shall enter in a book kept for that purpose, subject only to the inspection of the board and its proper officers, the name of the physician making such notification, the date of the notice, the name and precise locality of the disease, and at the close of each six months such physician shall be entitled to receive, on the certificate of the said board, from the disbursing officers of the said township or municipality the sum of twenty-five cents for each notification so given, unless such notification shall be found to have been erroneous.

Board may determine when physicians to notify board of contagious diseases.

27. That a notice of any inspector of any local board of health to abate any nuisance, or by the executive officer or other authorized member of said board, shall be taken as a notice from the board, and if the owner or person notified shall fail to abate the nuisance complained of, the said board may cause the same to be abated in a summary way, giving written directions to the inspector in relation thereto, and he shall proceed according to the directions so given.

How nuisances abated on failure to obey notice.

28. That any such local board of health, instead of proceeding in a summary way to abate a nuisance hazardous to the public health, may file a bill in the Court of Chancery, in the name of the State, on the relation of such board of health for an injunction to prohibit the continuance of such nuisance, and such actions shall proceed in the Court of Chancery according to the rules and practice in such cases on the relation of individuals, and cases of emergency shall have precedence over other litigation pending at the time in the Court of Chancery, and may be heard on final hearing within such time and on such notice as the Chancellor shall direct.(a)

How board may proceed to abate nuisance.

(a) Under this authority a local board may file a bill as relators, in the name of the State, for an injunction. In this respect the remedy to restrain a nuisance, which formerly was required to be in the name of the State and at the instance of the Attorney-General, has been extended so that a proceeding in equity for an injunction to restrain a nuisance hazardous to the public health may be taken by such board. *Hutchinson v. Board of Health of Trenton*, 12 *Stew.* 569.

Court of
Chancery
may abate
nuisances by
injunction,
etc.

29. That in all cases in which it shall be ascertained by the Court of Chancery in such suits that such nuisance existed at the time of filing such bill, substantially as set forth in the same, the court shall have power to abate the same by an injunction or otherwise, according to the practice of the court, and may charge the costs of such suit upon the property whereon such nuisance is found, and enforce the same by sale of the said property, or any part thereof, on writ of fieri facias, or the said court may order the person or corporation which caused such nuisance or allowed the same to continue, to pay such costs, and enforce obedience to such order.

Costs, how
awarded.

30. That in case no such nuisance shall be found to exist, costs shall not be awarded as of course against the board of health which caused such suit to be brought, but only in case it shall appear to the Chancellor that no probable cause existed for bringing such suit.

Boards em-
powered to
appoint offi-
cers and
agents and to
fix compensa-
tion, etc.

31. That such local boards of health shall have power and authority to appoint such subordinate officers and agents to carry into effect the powers hereby conferred as they may deem necessary, to fix the term of such appointments and the compensation of such appointees; and in every city, town, borough or other local municipal government, containing a population of two thousand inhabitants or more, there shall be at least one inspector appointed by such boards; the duties of the officers and appointees of the said board shall be prescribed and defined by rules, regulations or ordinances made for that purpose.

State board
may require
local boards
to appoint
inspectors.

32. That where, in any township, sufficient sanitary inspection is not secured, the State Board of Health may, on notice to the local board, require the appointment by the local board, of a health inspector for such township, who shall be paid by the local board of the township a sum not less than fifty dollars a year for his services as inspector.

Local boards
to take cogni-
zance of
neglect or
failure to
make returns.

33. That such local boards of health shall take cognizance of any neglect or failure to make return on the part of any person charged with this duty under the laws of this State, and such boards are authorized to pass ordinances in relation thereto, and prescribe penalties therefor, and to enforce the same in any lawful manner.

Local boards
to present to
common
council an
estimate of
appropria-
tions needed.

34. That the local board of health of every city, borough, town or other local municipal government, shall each year, before the budget of municipal taxes to be levied for such year shall be determined, present to the common council or other governing body of such city, borough, town or other local municipal government, an estimate of appropriations which it shall believe to be needed for health purposes, and if said estimate is not beyond a pro rata of five cents for each inhabitant as returned by the last preceding census, the same shall be allowed, and as much in addition thereto as such common council or other governing body shall approve; the appropriation so allowed shall be paid by the treasurer or other custodian

Appropriations,
by
whom paid.

of the municipal funds to the board of health, at such times after the budget of municipal taxes shall be determined, and in such sums as the board shall require by their written order drawn upon the treasurer or other custodian of the municipal fund, signed by the president of the board and attested by its secretary; and all fines, fees and penalties imposed and collected under the ordinances of any such board shall also be paid to said board.

35. That the local board of health of each township in this State may expend annually the sum of one hundred dollars in the care of the public health, and in addition thereto fifty dollars for each one thousand of the inhabitants thereof over two thousand, as returned by the last preceding census, if in its judgment such expenditure shall be required for the purpose, and itemized bills for such expenditure, having been approved by the president and secretary of such board, shall be paid by the usual disbursing officer of the township, and if in case of any emergency or of any special need for the protection of the public health such board shall consider the expenditure of a greater sum necessary, the board shall so certify to the township committee, and with their consent and approval may incur such further expense as said committee may authorize, and if the funds at the disposal of the township committee are not sufficient to cover such expenditure, said committee is hereby authorized to borrow money for the purpose on the credit of the township, and is directed to place the amount in the next annual tax levy, and with the money so raised to pay the debts so incurred.

Amount to be expended annually by local boards of health.

Township committee authorized to borrow money.

36. That the appointees, agents and officers of the said boards, except those merely temporary, shall hold their offices during the term for which they were severally appointed, and shall not be removed therefrom except for cause and after an opportunity has been given them for a hearing.

Agents, officers, etc., to be removed only for cause.

37. That the local board of health of every township, city, borough, town and other municipality shall, on or before the first day of October in each year, in addition to other reports required, prepare an annual report of the condition of the public health within the limits of its jurisdiction, stating therein any special cause for the deterioration of health or of hazard thereto, and shall therein answer any inquiries which may have been addressed to such local board by the State Board of Health, and such local board shall forward a copy of such report to the State Board of Health on or before the fifteenth day of October in each year; the clerical duty required in the preparation of such annual report shall be done by the secretary or clerk of the local board, who, upon receiving a certificate from the secretary of the State Board of Health that such annual report has been duly prepared and received by said State board on or before the said fifteenth day of October, shall be entitled to receive from the proper disbursing officer of the township, city,

Annual report.
As amended March 20, 1901.
P. L. 1901, p. 180.

borough, town or other municipality for which the report is made the sum of two dollars for such clerical service.

Repealer.

38. That all acts and parts of acts which in anywise conflict with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

Supplement.

Approved February 22, 1888.

Gen. Stat., p. 1642.

Local boards of health invested with additional powers.

1. That local boards of health, except township boards, shall, in addition to the powers enumerated in the act to which this is a supplement, have power to pass, alter or amend ordinances, and make rules or regulations within their respective jurisdictions:

To compel the plumbing, ventilation and drainage of buildings, etc.

I. To compel, prescribe, regulate and control the plumbing, ventilation and drainage of all buildings, public and private, and the connection thereof with outside sewers, cesspools or other receptacles, and to require plans for the same, with necessary drawings or descriptions to be submitted to said boards for inspection and approval, and to require all master and foreman plumbers and all building contractors to register their names and addresses at the office of said board; (a)

Sanitary condition of buildings.

II. To secure the sanitary condition of all buildings, public and private.

Board may delegate powers to any member or officer thereof.

2. That any such board of health may, by resolution, delegate any portion of its power to any member of the board or to any officer thereof, to be exercised only when the board is not in session, and any notice by any member of the board, or by any officer thereof, shall be notice by the board, and the person served therewith shall be bound thereby.

Conviction in prosecutions for violation of ordinances, form of.

3. That the conviction in prosecutions by any local board of health to recover penalties for the violation of the ordinances of said board, shall be in the following or similar form:

STATE OF NEW JERSEY,)
County of ———) ss.

Be it remembered, that on this _____ day of _____
A. D. _____ at _____ in said county,
_____ defendant, was, by the second district
court of the city of N. (or by E. F., a police justice, or as the
case is), convicted of violating section _____ of the sani-
tary code of the board of health of the said city of N. (or of an
ordinance entitled "An ordinance," etc.,) in a summary proceed-
ing, at the suit of the said the Board of Health of the city of N.,
plaintiff, upon a complaint made by _____; and
further, that the witnesses in said proceeding who testified for
the plaintiff were (name them), and the witnesses who testified
for the defendant were (name them); wherefore the said court
(or police justice, or as the case is) doth hereby give judgment

(a) Where plans have been approved by local board, owner must conform thereto. *Johnston v. Belmar*, 13 Dick. 354.

that the plaintiff recover of the defendant(a)
dollars penalty and dollars and
cents costs of this proceeding.

That said conviction shall be signed by the judge of the district court, police justice or other magistrate, before whom the conviction is had; in case of the infliction of a penalty, the amount of which is increased by the fact that it is for a second or additional violation, the conviction shall state that it appeared that the defendant had been guilty of a previous violation of the same section of said code or ordinance; the costs in prosecutions under the act to which this is a supplement shall be the same as costs before justices of the peace, police justices or recorders, or in district courts in other civil actions.

To be signed
by magistrate
before whom
had, etc.

Costs.

4. That any judgment rendered on conviction of a violation of any section of any ordinance or code of any local board of health, by any court having jurisdiction of such proceeding, may be docketed in the court of common pleas, as other judgments recorded in said courts may be, and in the same manner, and such judgment shall, from the time of said docketing in the court of common pleas, operate as a judgment obtained in a suit originally commenced in said court, and satisfaction thereof may be entered in the margin of the docket in the same manner and on the same evidence as is now provided by law in case of judgments rendered in the courts of common pleas; and the execution issued thereon shall be of the same effect as the property of the defendant, either of a personal or real nature, as if issued on a judgment originally obtained in the court of common pleas upon a suit commenced therein; and after said docketing, no further proceedings shall be had in the said district, police, justice's or recorder's court, in which said judgment was obtained.

Judgment
may be dock-
eted in Court
of Common
Pleas.

Supplement.

Approved February 27, 1888.

1. That if in the judgment of the State Board of Health it is found that clerical aid is needed by the secretary of the said board in dealing with the investigations and inquiries authorized by the act to which this is a supplement, and in the general necessary work of his office, it shall be lawful for the board to employ for this purpose so much of the appropriation of said board not exceeding eight hundred dollars as it may deem necessary.

Gen. Stat., p.
1643.
Clerical
assistance for
State board.

Supplement.

Approved February 25, 1889.

1. That local boards of health in densely-populated townships, in which there is a public water-supply, shall, in addition to the powers enumerated in the act to which this is a supple-

Gen. Stat., p.
1643.
Boards of
health em-
powered to
pass, alter
or amend
ordinances.

(a) As to this form of conviction, see *Board of Health v. Rosenthal*, 38 Tr. 216. Under this decision, the legislature having prescribed a form of conviction, the evidence taken before magistrate is not a necessary part of the record.

ment, have power to pass, alter or amend ordinances and make rules or regulations within their respective jurisdictions:

For plumbing, drainage, etc.

I. To compel, prescribe, regulate and control the plumbing, ventilation and draining of all buildings, public and private, and the connection thereof with outside sewers, cesspools or other receptacles, and to require plans for the same, with necessary drawings or descriptions, to be submitted to said boards for inspection and approval, and to require all master and foreman plumbers and building contractors to register their names and addresses at the office of said board;

Sanitary condition of buildings.

II. To secure the sanitary condition of all buildings, public and private.

May delegate power to any member.

2. That any such board of health may, by resolution, delegate any portion of its powers to any member of the board, or to any officer thereof, to be exercised only when the board is not in session, and any notice by any member of the board, or by any officer thereof, shall be notice by the board, and the person served therewith shall be bound thereby.

Supplement.

Approved May 9, 1889.

Gen. Stat., p. 1643.

Local boards vested with additional powers.

1. That all local boards of health shall, in addition to the powers now vested in them, have power to pass, alter or amend ordinances and rules within their respective jurisdictions; to license and regulate persons to engage in the business of cleaning cesspools and privies; to fix the fees that shall be charged for each license granted, not exceeding twenty dollars for each vehicle or conveyance; to prohibit unlicensed persons from engaging in said business, and to require all vehicles and conveyances used in said business to be approved by the local board of health of the jurisdiction in which the same may be used.

License to continue for one year.
Proviso.

2. That each license granted under the provisions of the foregoing section shall continue for the term of one year from the date of granting the same; *provided*, that if any person licensed as aforesaid, or any of his employees, servants or agents, shall violate any ordinance or rule of said board in cleaning any cesspool or privy, or in removing the contents thereof, such license may, in the discretion of the board which granted the same, be revoked by said board.

Local boards may charge fee for filing plan of plumbing or draining system.

3. That all local boards of health except township boards of health which now have, or may hereafter pass an ordinance or ordinances under the power now conferred by law, requiring that the plan of the plumbing or drainage system to be constructed in any building within their respective jurisdictions, shall be filed in the office of the board of health, and shall have the power to charge a fee not exceeding two dollars, to be paid by the owner or other person filing said plan to the said board of health, on filing said plan.

Supplement.

Approved March 29, 1892.

1. That whenever an epidemic of any contagious or infectious disease exists or is threatened or any special need arises for the protection of the public health, and in the judgment of any local board of health, in any city, borough, town or other local municipal government, the expenditure of a greater sum than that already appropriated to said board for the current year is necessary the said board of health shall so certify to the common council or other governing body having control of the finances of such city, borough, town or other local municipal government, and thereupon such local municipal authorities may appropriate and pay to such board of health such sum or sums as such board of health may certify to be necessary, and if the funds at the disposal of such local municipal authorities are not sufficient to make such payment, such local municipal authorities may borrow such sum or sums on the credit of the municipality and the said common council or other governing body may appropriate and pay to the said board of health the sum necessary for such additional expenditure.

Gen. Stat., p. 1645.

In case of contagion local boards of health shall have power to expend sufficient funds to cover the expense thereof.

Supplement.

Approved March 29, 1892.

2. That it shall be the duty of township boards of health to appoint, on the day of their organization, a place, day and hour for a regular meeting for the hearing of complaints, reports and general business, and to cause to be published in the township newspaper, or a paper circulating in the township, notice of the same: *provided*, that at least one regular meeting shall be held in each year: *and provided further*, that special meetings may be called at any time by the president of said township board, or by the State Board of Health, and for attendance on meetings of said boards of health the members shall receive the sum of two dollars, for each meeting, to be paid in the same manner as members of township committees are paid for their services.

Gen. Stat., p. 1644.

Boards authorized to appoint regular meetings for the hearing of complaints.

Supplement.

Approved March 17, 1893.

1. That whenever the State board or any local board of health, in order to prevent the spread of contagious disease, destroy, or order to be destroyed, personal effects or bedding, it shall be the duty of the said board to make, or cause to be made, an inventory of the said personal goods, and immediately thereafter to certify the value of said personal goods so destroyed to the State Treasurer, in case they have been destroyed by the State Board of Health, and to the municipal authorities in case of local boards, and it shall be the duty of the State

Treasurer or municipal authority to pay over to the owner of said goods, or his or her legal representatives, the sum so certified.

Supplement.

Approved March 17, 1893.

Gen. Stat., p.
1645.

When police
justice, etc.,
authorized to
issue a
warrant.

Search to be
made.

To whom re-
turn made.

Who are
directed to
assist officers.

1. That all police justices, recorders, justices of the peace and all other magistrates are hereby authorized on complaint founded on information and belief, supported by oath or affirmation of any officer or agent of the State Board of Health or of any local board of health that there is in any dwelling-house, store, stable or any building of any kind whatsoever any nuisance affecting health or any person sick of any contagious or infectious disease, or any condition of contagion or infection which may have been caused by anyone recently sick of any such disease in such dwelling-house, store, stable or any other building, to issue a warrant directed to the sheriff of the county within which such complaint shall be made, or to any constable, marshal, police officer or to any officer or agent of such board of health directing him, them or any of them to search in such dwelling-house, store, stable or other building for such nuisance affecting health; or for any person sick of any contagious or infectious disease, or for any condition of contagion or infection which may have been caused by anyone recently sick of any such disease in such dwelling-house or other place as aforesaid, and if such nuisance be found, to abate the same; and if such sick person be found, to deal with him according to law and the ordinances of such board of health; and if such condition of contagion or infection be found to exist, to destroy the same by means of proper disinfection.

2. That the officer to whom such search warrant shall be directed shall make return of his proceedings thereunder to the court or magistrate by which or whom such warrant may be issued.

3. That the sheriff of the county and all constables, marshals and police officers of any county, city, borough or town, or such of them as shall be required, are hereby directed, if required by any officer to whom such warrant may be directed, to be present and assist in the execution thereof.

Supplement.

Approved March 27, 1893.

Gen. Stat., p.
1646.

Penalty pre-
scribed for
violation of
any ordi-
nance, etc.

Penalty left
to the discre-
tion of the
court, etc.

1. That any local board of health may prescribe a penalty for the violation of any ordinance, section of code, or amendment thereof, heretofore or hereafter passed by such board, not to exceed one hundred dollars, and not less than two dollars.

2. That such board shall not be required to provide a penalty specific in amount for the violations referred to in section one hereof, but they may provide that the penalty shall not be less than one given sum nor greater than another given sum, the amount of such penalty between the maximum and the mini-

num inclusive, shall be left to the discretion of the court or magistrate before whom complaint may be made; *provided*, however, that this act shall not be construed so as to invalidate any ordinances now in force. Proviso.

Supplement.

Passed May 24, 1894.

Gen. Stat., p. 1646.

1. That whenever any nuisance or source of foulness within the limits of the territorial jurisdiction of any local board of health of this State is of such a nature that, in the opinion of the State Board of Health, it is hazardous to the health of persons residing within the limits of the jurisdiction of such local board, it shall be lawful for the State Board of Health to cause a notice in writing, signed by the secretary of said board, to be sent to such local board, requiring it to cause such nuisance or source of foulness to be abated within such time as said State board by said notice may specify, and if no action for the abatement thereof shall be taken by such local board within the time specified in such notice, or if in the opinion of the State board the action of the local board shall not be such as the necessities of the case seem to the State board to require, then it shall be lawful for such State board to file a bill in the Court of Chancery in the name of the State on the relation of such board, for an injunction to prohibit the continuance of such nuisance or source of foulness.

State board may abate nuisance within jurisdiction of local board.

2. That whenever any nuisance or foul odors, injurious to the public health within the territorial jurisdiction of any local board of health, shall have a source or origin outside of the limits of such territorial jurisdiction, it shall be lawful for the State Board of Health to file a bill in the Court of Chancery, in the name of the State, on the relation of such board, for an injunction to prohibit the continuance of such nuisance or source of foulness or ill health.

May file bill in chancery to abate outside nuisances.

3. That actions instituted under the authority of either of the two preceding sections shall proceed in the Court of Chancery according to the rules and practice in such cases on the relation of individuals, and cases of emergency shall have precedence over other litigation pending at the time in said court, and may have final hearing within such time and on such notice as the Chancellor may direct.

Actions may have precedence.

4. That in every such action in which it shall be ascertained by the Court of Chancery that such nuisance or source of foulness or ill health existed at the time of the filing of the bill substantially as therein set forth, the court shall have power to abate the same by an injunction or otherwise, according to the practice of the court, and may charge the costs of such action upon the property whereon such nuisance or source of foulness or ill health is found, and enforce the payment of the same by sale of said property or any part thereof by writ of fieri facias, or the said court may order the person or corporation which caused such nuisance or source of foulness or ill health, or allowed the same to continue, to pay such costs, and may enforce obedience to such order.

Court may issue injunction to abate nuisance.

May sell property to pay costs.

When costs shall not be awarded.

5. That in case no such nuisance shall be found to exist, costs shall not be awarded as of course against the State Board of Health, but only in case it shall appear to the Chancellor that no probable cause existed for bringing such suit.

Supplement.

Approved April 23, 1897.

P. L. 1897, p. 270.

Additional powers given boards of health regarding sale of milk not considered healthful.

1. Any local board of health organized or created under the provisions of the act to which this is a supplement, in addition to the powers already possessed, shall have power to adopt and alter ordinances prohibiting the sale of or having in possession for sale, any milk containing any unhealthy ingredient, constituent or substance, or which has been transported or stored in an unclean manner or place, or which is produced from cows which are diseased or which are kept or stabled under unhealthy conditions.

Ordinances. As amended. P. L. 1898, p. 429.

Source of milk supply.

2. Said local boards of health are further empowered to adopt and alter ordinances requiring any person or persons engaged in the sale of milk within the municipalities in which such boards of health are organized, to furnish forthwith, when so requested by said boards of health, or any inspector or officer thereof, a true statement in writing, upon blanks to be supplied by said boards of health, setting forth the locality from which said milk was procured, and also a full and complete list of the names of persons from said milk was purchased, and the names and addresses of all customers or persons to whom he or they may sell or deliver milk in any city, borough or other municipality in which said board of health may be organized, and said blanks, when filled in as aforesaid, shall be signed by the person selling said milk to whom the said blank shall be tendered; and said ordinance may require the person or persons engaged in the sale of milk, as aforesaid, to notify, in writing, said board of health immediately upon changing the source of supply of said milk of such change, and said notice shall also state the name or names of persons supplying said milk and the locality from which such milk is procured.

To whom delivered.

Penalty for violation.

3. Said boards of health are further empowered to prescribe a penalty for the violation of the ordinances aforesaid of not less than ten dollars nor more than one hundred dollars, which shall be collected in the same manner as provided for by the act to which this is a supplement.

Supplement.

Approved April 21, 1898.

P. L. 1898, p. 428.

Sale of contaminated milk prohibited.

1. When the State Board of Health, or any officer thereof duly authorized in writing by such board to act for or on its behalf, shall have reason to believe that any milk has been contaminated by the emanations, exhalations or discharges of

any persons sick with communicable disease, it shall be lawful for the said State Board of Health, or the officer so authorized to act in the premises, to issue an order in writing, signed by any officer of the State Board of Health, or by the officer authorized to act in the premises as aforesaid, prohibiting the transportation or sale of any milk suspected to be contaminated as aforesaid, and also prohibiting the transportation or sale of any milk which may be produced, stored, kept or found upon any premises infected by such disease; every person upon whom any such order may be served shall be bound by such prohibition, and the prohibition shall continue until the State Board of Health, or the officer authorized to act in the premises as aforesaid, shall have had opportunity to examine into the matter of suspected contamination and shall have removed the prohibition by another order in writing, signed by any officer of the State Board of Health, or by the officer authorized to act in the premises as aforesaid; any person or persons who shall knowingly transport or sell any milk, the sale and transportation of which has been prohibited as aforesaid, shall be liable to a penalty of one hundred dollars, to be recovered by the State Board of Health in an action upon contract in any court of record within this State, the money so recovered to be applied by the State Board of Health to any purpose for which it may be legally authorized to expend money.

Order.

Penalty.

2. The act entitled "A further supplement to the act entitled 'An act to establish in this State boards of health and a bureau of vital statistics, and to define their respective powers and duties.'" approved March thirty-first, one thousand eight hundred and eighty-seven, which further supplement was approved March twenty-eighth, one thousand eight hundred and ninety-five, being chapter three hundred and seventy-four of the laws of one thousand eight hundred and ninety-five, is hereby repealed.

Supplement.

Approved April 3, 1902.

1. Whenever, within the limits of the territorial jurisdiction of any local board of health of this State, there shall be any person or persons suffering from any contagious, infectious or communicable disease, it shall be lawful for the State Board of Health, if they shall deem it necessary or prudent so to do, to cause a notice in writing, signed by the secretary of said board, to be sent to such local board requiring it to take such action for the restriction of the spread of such contagious, infectious or communicable disease, within such time as the said State board by said notice may specify, and if such action shall not be taken by such local board within the time specified in such notice, then it shall be lawful for the State board to apply to the Supreme Court for a writ of mandamus to compel such local board to take such action.

P. L. 1902, p. 402.

When mandamus may be issued to compel action by local board of health.

Supplement.

P. L. 1902, p.
281.

Air per
capita.

Approved April 3, 1902.

Custodian of
tenement.

Liability.

1. Whenever it shall be certified to the board of health of any city by the health inspector or other sanitary officer thereof, that any tenement-house or room therein being without sufficient ventilation is so overcrowded that there shall be afforded less than four hundred cubic feet of air to each adult, and one hundred and fifty cubic feet of air to each child under twelve years of age, occupying such building or room, the said board of health shall issue an order requiring the number of occupants of such building or room to be reduced in accordance with this act; whenever there shall be more than eight families living in any tenement-house in which the owner thereof does not reside, there shall be a janitor, housekeeper or some other responsible person who shall reside in said house and have charge thereof, if the board of health shall so require by notice in writing; any person, persons or corporation failing or refusing to comply with the provisions of this act for the period of ten days after receiving notice in writing from the local board of health of any such city in this State, shall be liable to a fine of twenty-five dollars, and five dollars per day for each and every day after the said ten days in which the provisions of this act or such notice shall not be complied with.

Supplement.

P. L. 1903, p.
453.

Examination
of applicants
as health
officers and
sanitary
inspectors.

Approved April 8, 1903.

Classes of
licenses.

1. To the end that local boards of health may be enabled to secure the services of capable health officers and trained sanitary inspectors, the Board of Health of the State of New Jersey is hereby authorized to cause examinations to be made, by such persons and at such times and places as it may appoint, and under such rules and regulations as it may adopt, for the purpose of determining the qualifications of applicants for license as health officers and sanitary inspectors; every such examination shall be in such subjects and conducted in such manner as the Board of Health of the State of New Jersey shall direct, and every applicant whose examination shall be approved by said State board shall receive a license as health officer or sanitary inspector as hereinafter provided.

2. Said State board shall issue four classes of licenses, to wit: health officers' licenses, sanitary inspectors' licenses of the first class, sanitary inspectors' licenses of the second class and sanitary inspectors' licenses of the third class; every person whose examination as an applicant for a health officer's license is approved shall be entitled to receive such license, and every person whose examination as an applicant for a sanitary inspector's license of the first class, the second class or the third class, is approved shall be entitled to receive a sani-

tary inspector's license of the first class, the second class or the third class, according to the approval of his examination.

3. Any person licensed as a health officer shall be eligible to appointment as such officer by any local board of health in this State, and when so appointed shall, during the term of his appointment, and subject to the superior authority of such local board, be its general agent for the enforcement of its ordinances and the sanitary laws of this State within the territorial jurisdiction of such local board.

Eligibility to appointment.

4. Any person licensed as a sanitary inspector of the first class shall be eligible to appointment as such inspector by any local board of health in this State; any person licensed as a sanitary inspector of the second class shall be eligible to appointment as such inspector by any local board of health in any municipality of this State, not being a city; any person licensed as a sanitary inspector of the third class shall be eligible to appointment as such inspector by any local board of health in any township of this State; the title "sanitary inspector," as used in this act, shall be understood to apply to every officer appointed by a local board of health to aid in the enforcement of the sanitary laws of this State, or the rules, regulations and ordinances of such local board, excepting health officers and persons performing merely clerical duties in the office of such local board; any sanitary inspector so appointed shall be the agent of the local board appointing him for the performance of such services as such local board, or any health officer under the authority of such local board, shall assign to him.

Sanitary inspectors.

5. No local board of health shall, on or after the first day of January, nineteen hundred and five, appoint any person as health officer who is not the holder of a health officer's license granted as in this act above prescribed, or as sanitary inspector who is not the holder of a sanitary inspector's license of the class hereinabove prescribed for the municipality or township within which the appointing local board shall have jurisdiction; *provided, however*, that nothing in this act shall prevent any local board of health from continuing in office any person now filling the office of health officer or sanitary inspector for such local board.

After 1904 license necessary.

Proviso.

A Further Supplement to an act entitled "A further supplement to the act entitled 'An act to establish in this State boards of health and a bureau of vital statistics and to define their respective powers and duties,' approved March thirty-first, one thousand eight hundred and eighty-seven. and which further amendatory act was approved April eighth, one thousand nine hundred and three."

Approved April 19, 1906.

P. L. 1906, p. 239.
Joint health officer.
Proviso.

1. One or more adjacent townships or municipalities may join in employing a health officer and one or more sanitary inspectors; *provided*, that such health officer or sanitary in-

spectors shall have obtained a license as required by the act to which this is a supplement.

Salary and
duties.

2. When one or more adjacent townships or municipalities shall join in the employment of a health officer or sanitary inspector the boards of health of the said townships or municipalities so joined are hereby authorized to fix the salary to be paid to said health officer or sanitary inspector, to arrange the duties of said health officer or sanitary inspector, and to apportion the sums to be paid by each of the said townships or municipalities so joining on account of the salaries to be paid said health officer or sanitary inspector, and said sums shall be paid from the sums appropriated to such boards of health.

Additional
inspectors.

3. In municipalities where a licensed health officer or sanitary inspector has been appointed and employed, additional sanitary inspectors may be appointed by the local board of health for temporary or special service, and such appointees shall not be required to hold a license as provided for in the act to which this is a supplement.

Supplement.

P. L. 1904, p.
224.

To prevent
keeping milch
cows in un-
wholesome
places.

Approved March 28, 1904.

1. Whenever any person shall keep cows for the production of milk in a crowded or unhealthy place or condition, or feed any cows kept for the production of milk on swill or any substance in a state of putrefaction or rottenness, or on any substance of an unwholesome nature, or on any substance that may produce disease or unwholesome milk; or who shall sell or distribute, or offer to sell or distribute, or have in possession with intent to sell or distribute any milk which is the produce of cows so kept or fed, then it shall be lawful for the State Board of Health to file a bill in the Court of Chancery in the name of the State, on the relation of such board, for an injunction to prohibit the keeping of cows for the production of milk in such crowded or unhealthy place or condition, or the feeding of cows on swill or any substance in a state of putrefaction or rottenness, or any substance of an unwholesome nature, or on any food or substance that may produce disease or unwholesome milk, or the continuance of the sale, distribution or transportation of such milk as the case may be, and for such other or further relief in the premises as the Court of Chancery shall deem proper.

Improper
feeding.

Supplement.

P. L. 1906, p.
244.

Annual con-
ference of
State and
local boards.

Approved April 19, 1906.

1. The Board of Health of the State of New Jersey is hereby authorized to appoint a time and place for a conference, once in each year, between the members of said board and delegates from the various local boards of health in this State, for the consideration of questions relating to the prevention of the spread of dangerous communicable diseases and the promotion of the public health.

2. Each local board of health is hereby authorized to appoint one of its members or officers or employes as a delegate from such board to attend every such annual conference, and the actual traveling and hotel expenses of each delegate so appointed shall be paid by the treasurer or other disbursing officer of the township or municipality within which such local board has jurisdiction, upon presentation by the delegate of a certificate of his appointment and a bill of his expenses duly verified by affidavit.

Delegate
from local
board, ex-
penses paid.

**An Act to reorganize boards of health in cities of the first class
in this State.**

Approved May 15, 1894.

Gen. Stat., p.
1647.
Board shall
be non-
partisan.

1. That where in any city of the first class in this State the members of the board of health of such city are now or hereafter may be appointed by the mayor of such city, such board of health shall consist of ten legal voters of such city to be appointed by the mayor of such city within five days after the passage of this act, and on the second Monday of May in each second succeeding year hereafter, five of which said commissioners shall be selected and appointed from the political party which, at the last preceding election for mayor of said city, cast the largest number of votes for mayor, and five from the political party at said election casting the next largest number of votes; the commissioners so appointed shall serve for the term of two years and until their successors shall be appointed and qualified.

Shall serve
for two years.

2. That the members of the board of health in such cities appointed prior to the passage of this act shall continue in office until the appointment of their successors hereunder, at which time their respective offices shall become vacant, notwithstanding they may have been elected or appointed for a longer term.

Present offices
vacated.

3. That any vacancy which shall happen in the office of member of the board of health in such city shall be filled by the mayor of said city for the unexpired term only, and that the member so appointed to fill such vacancy shall be selected by the mayor from the same party as the member for whose expiring term he is appointed.

Vacancies
shall be filled
for unexpired
term only.

4. That the terms of office of all officers and employes appointed by boards of health in any such city shall cease on the first day of June, one thousand eight hundred and ninety-four, notwithstanding such officers or employes may have been appointed for a longer term, and that such officers and employes shall receive and be paid as salary or compensation for services rendered up to said date, that part of the salary or compensation proportioned to the actual time served by them in said office or employment.

Terms of
present offi-
cers and
employes
shall cease.

Powers of,
under this
act.

5. That the boards of health provided for by this act shall perform all the duties and possess all the powers and be subject to all the liabilities now or hereafter conferred upon boards of health in such cities by the laws of this State.

An Act concerning boards of health in cities of the first class.

Gen. Stat., p.
1648.

Boards may
grant and
regulate per-
mits and fix
fees therefor.

May pass,
alter and
repeal ordi-
nances and
fix fines and
penalties.

May provide
for a regis-
tration of
vital
statistics.

Proviso.

Approved March 22, 1895.

1. That the boards of health in cities of the first class are hereby authorized to grant and regulate permits incident to health matters and fix fees to be paid therefor.

2. That said boards of health in said cities of the first class be and are hereby empowered to pass, enact, alter, amend and repeal ordinances relating to the public health of said cities, and fix the amount of fines and penalties for the violation of said ordinances; the method now in use in said cities for the passing, enacting, altering, amending and publishing said ordinances in said cities to be the method used to pass, enact, alter, amend, repeal and publish the ordinances herein mentioned; *provided, however,* that in any county of this State wherein there is established by law a county board of health and vital statistics, such board shall be and hereby is empowered to make ordinances in relation to, and for the protection of the public health and the registration of vital facts or statistics in and for such county; *and provided further,* that no ordinances to be enacted by any board of health in cities of the first class, or any county board of health, shall be deemed of any force and effect within the limits of any city of the first class located in any county in which there may be established any such county board of health, until the said respective boards shall agree thereto and by ordinance enact and define their separate and respective jurisdictions within the limits of such city.

An Act to authorize the board of health in cities of the first class in this State to condemn and prohibit the sale or use of impure ice or ice cut from polluted streams.

Gen. Stat., p.
1648.

Sale of im-
pure ice may
be forbidden.

Penalty.

Approved March 28, 1895.

1. That the board of health of each of the cities of the first class in this State shall have authority to provide by ordinance for the prohibition of the use or sale of impure ice or ice cut from polluted ponds or streams, and in order to properly carry out and enforce the provisions of such ordinance to provide that all dealers in ice for domestic or public use shall obtain from the health authorities of such cities a permit, and to fix in such ordinance a penalty for the violation of the same, **which** shall not exceed a fine of fifty dollars for each offense.

An Act relating to boards of health in cities of this State containing a population of over one hundred thousand.

Approved March 5, 1895.

Gen. Stat., p. 1649.

1. That in cities containing a population of over one hundred thousand inhabitants the board of health of such cities shall consist of not less than five nor more than ten members, who shall be appointed in such manner and hold their respective offices for such terms as the board of aldermen, common council or other governing body may by ordinance provide; if any vacancy shall occur in any such board, it shall be filled in the same manner in which the original appointments were made, but for the unexpired term only.

Governing body shall establish mode of appointment and fix term of office.

Vacancies shall be filled for unexpired term only.

2. That any board of health now existing in such cities shall be deemed, held and taken to be the board of health created under the provisions of this act, and every such board is hereby perpetuated and continued, and is hereby authorized, without reorganization, to exercise all the powers and required to perform all the duties applicable to boards of health under the laws of this State; the members of every such board shall continue in office until the expiration of the terms for which they were originally appointed; and all ordinances, rules and regulations heretofore adopted or passed by any such board of health as aforesaid which might be adopted or passed under the authority of this act shall continue to be the ordinances, rules and regulations of such board and shall be of the same force and validity as if they had been actually adopted or passed under the provisions and authority of this act.

Existing boards recognized and continued.

Ordinances, etc., continued in force.

3. That the said boards of health in said cities are hereby authorized to grant and regulate permits and fix the fees to be paid therefor.

Board may grant permits and fix fees therefor.

4. That said boards of health in said cities be and are hereby empowered to pass, enact, alter, amend and repeal ordinances relating to the public health of said cities, and fix the amount of fines and penalties for the violation of said ordinances and provide for the collection, appropriation and disbursement of the same; the method now in use by the boards of health in said cities for the passing, enacting, altering, amending and publishing ordinances in said cities to be the method used to pass, enact, alter, amend, repeal and publish the ordinances herein mentioned.

May pass, alter, amend and repeal ordinances. And fix penalties.

An Act respecting local boards of health in cities of this State.

Approved March 19, 1895.

Gen. Stat., p. 1649.

1. That where the board of health of any city in this State shall have established or shall hereafter establish a plant for the production of diphtheria antitoxin serum, and shall be engaged in the production of diphtheria antitoxin serum, that such board of health shall have power from time to time and

Surplus antitoxin serum may be sold.

at such price as they shall determine, to sell to any other municipality or to any person desiring to purchase the same, such surplus diphtheria antitoxin serum as they may have and which is not needed in the city in which such health board is located.

Supplement to an act entitled "An act relating to, regulating and providing for the government of cities," which act was approved April eighth, one thousand nine hundred and three.

P. L. 1905, p. 122.

Board of health divided into classes.

Approved March 29, 1905.

1. In all cities of this class the board of health of such cities shall consist of seven members, citizens of said city; they shall be appointed by the mayor of such city immediately after this act goes into effect. The members appointed under this act shall be divided into classes as to their terms of office: one class of one member to hold office one year; one class of two members to hold office two years; one class of two members to hold office three years; and one class of two members to hold office four years; and thereafter all appointments shall be for the term of four years; any vacancy in such board shall be filled for the unexpired term only.

Repealer.

2. All acts and parts of acts, general or special, inconsistent with this act, are hereby repealed, and this act shall take effect immediately.

An Act concerning registrar of vital statistics in cities of the second class in this State.

Gen. Stat., p. 1649.

City clerk shall be registrar of vital statistics.

Approved March 21, 1895.

1. That in all cities of the second class of this State having over fifty thousand inhabitants the clerk of the city council, board of aldermen or other governing body shall be registrar of vital statistics.

An Act to authorize cities to make additional appropriations for purposes of public health.

Approved February 13, 1883.

1. That whenever the regular annual appropriation in any city, made for purposes of public health, shall be found, on account of the prevalence of epidemic or contagious disease or diseases, to be inadequate for the carrying out and enforcement of proper measures to preserve and protect the public health, it shall be lawful for the board of aldermen or common council or other body charged by law with the appropriation of moneys for city purposes of such city, to authorize, by resolution, the appropriation and expenditure of such additional sum as shall be necessary for the purposes aforesaid; and in case there shall not be sufficient surplus money in the city treasury, not

otherwise appropriated, to answer such additional expenditure, it shall be lawful for the authorities of the city to provide therefor by temporary loan or loans, and the amount of such loan or loans shall be incorporated in the next annual tax levy.

An act respecting the cutting and sale of ice in cities of this State, and giving to boards of health in such cities power to regulate and control the same.

Approved March 18, 1885.

Gen. Stat., p. 1650.

1. That no ice shall be cut for the purpose of being sold or used in any city of this State from any pond, creek or river within the limits of any such city, unless a permit therefor shall be first obtained from the board of health of such city, and no person or persons shall sell or deliver any ice in any city in this State without first obtaining a permit therefor from the board of health of such city, and it shall be lawful for any such board of health to refuse a permit and to revoke any granted by them as aforesaid when in their judgment the use of any ice cut or sold, or to be cut or sold, under the same is or would be detrimental to the public health.

No ice to be cut or sold within limits of city without permit from board of health.

2. That the board of health of any city may prohibit the sale and use of any ice within the limits of such city when in their judgment the same is unfit for use, and the use of the same would be detrimental to the public health, and the said board may prohibit and through its officers stop, detain and prevent the bringing of any such ice for the purpose of sale or use into the limits of any such city, and also in the same manner stop, detain and prevent the sale or use of any such ice found within the limits of such city.

Board may prohibit sale and use of ice in certain cases.

3. That any person or persons who shall violate any of the provisions of this act, or who shall attempt to cut, sell or bring into any city any such ice after being notified by said board of health or its officers not to do so, shall be guilty of a misdemeanor, and on conviction shall be sentenced to imprisonment in the county penitentiary for a term not to exceed six months, or to pay a fine of five hundred dollars, or both, in the discretion of the court; and it shall be lawful for the officers of said board of health or the police officers of any such city to arrest on sight any person or persons who shall be found violating any of the provisions of this act.

Penalty for violating provisions of act.

Supplement.

Approved March 8, 1888.

Gen. Stat., p. 1650.

1. That the provisions of the act to which this act is a supplement be and the same hereby are extended to all boroughs, townships, towns and other local municipal governments in the State.

Provisions of act extended.

[NOTE.—The title of the act to which this is a supplement limits its application to cities alone.]

An Act to protect the property of ice dealers.

Gen. Stat., p.
1695.

From what
waters per-
sons having
ice-houses
may gather
ice.

Ice dealers
not to be
interfered
with.

To whom this
act shall not
extend.

Approved February 28, 1871.

1. That it shall be lawful for all persons having ice-houses upon the waters of this State to gather the ice in front of their lands to the middle of the several streams, ponds and lakes upon which they are located.

2. That during the time the several ice dealers are gathering their ice crops, it shall not be lawful for any persons to interfere with the same except for the purposes of navigation.

3. That the provisions of this act shall not extend to the owners of mill ponds, nor shall it extend to parties having the mere right of way upon the shores of the several water-courses of this State.

Supplement.

Approved March 14, 1882.

Gen. Stat., p.
1695.

Penalty for
polluting ice
or destroying
machines for
the gathering
the same.

1. That if any person or persons shall maliciously or willfully pollute, corrupt or render impure the ice in front of the lands of persons having ice-houses, as described in the first section of the act to which this is supplement, or shall willfully or maliciously destroy any engine, machine, tools or other property used for the gathering and storing such ice, the person or persons so offending shall be deemed guilty of a misdemeanor, and being thereof convicted, shall be punished by a fine not exceeding one hundred dollars or imprisonment at hard labor not exceeding one year, or both.

An Act concerning the use of moneys collected for permits issued by the health department of cities of this State.

Approved May 2, 1885.

1. That any money collected by the health department of any city of this State for any permits issued by such department or any officer thereof, may hereafter be used by such department to prevent the spread of disease, the abatement of nuisances and for like sanitary purposes within such city; all such moneys shall, however, be accounted for at the end of each fiscal year in a detailed written statement to the board or department of such city having control of the finances thereof: and any unexpended balance on hand at that time, exceeding the sum of two hundred dollars, shall be paid over to the city treasurer or other like officer entrusted with the keeping or custody of the moneys and securities of such city.

An Act concerning county boards established for the protection of the public health and the registration of vital facts and statistics in counties of this State.

Approved March 12, 1880.

Gen. Stat., p.
1651.

County
boards of
health estab-
lished by law
empowered to
enact ordi-
nances.

1. That in any and every county of this State wherein there is or may be established by law a county board of health, or county board of health and vital statistics, or other like county board for the protection or preservation of the public health,

such board shall be and hereby is empowered to enact and make ordinances in relation to and for the protection of the public health and the registration of vital facts or statistics.

As amended
April 21,
1887.

[For other sections, see Gen. Stat., p. 1651.]

An Act to provide means and moneys to guard against the spread of contagious or infectious diseases when epidemic, or likely to become epidemic, and to regulate the disposition of said moneys.

Approved March 24, 1885.

Gen. Stat., p.
1675.

1. That whenever there shall be presented to the board of chosen freeholders of any county of this State, which has a county board of health, a certificate signed by the surgeon-general of the State, the president or secretary of the State Board of Health, the president of the board of health of said county, the county physician (where there is such an officer) and the director of such board of freeholders, certifying that any contagious or infectious disease is prevailing or epidemic, or likely to become so in said county, it shall thereupon be lawful for such board to authorize, by resolution, the expenditure of such sum of money as to said board shall seem necessary for the purpose of guarding against and preventing the spread of such disease; and that notwithstanding there may be no appropriation then available for such purpose, or the sum authorized may be in excess of any such appropriation, or in excess of any limit of expenditure for the current fiscal year theretofore fixed by said board or by any law of this State; said board may also from time to time as the exigency of the case shall require, authorize further expenditure for the purpose aforesaid.

2. That said sum or sums, the expenditure of which shall be so authorized, shall be expended under the direction of the board of health of said county where such board exists.

3. That whenever there shall be presented to the board or body having charge of the financial affairs of any city, borough, village, town or township of any county which has a county board of health, a certificate signed by the surgeon-general of the State, the president of the county board of health, the president or other head officer of the local board of health (if any such board exists), the local health officer (if any such there be), and the mayor or other chief magistrate of the municipality, certifying that any contagious or infectious disease is prevailing or epidemic or likely to become so in such city, borough, village, town or township, it shall thereupon be lawful for such board or body having charge of such financial affairs to authorize, by resolution, the expenditure of such sums of money as to said board or body shall seem necessary for the purpose of guarding against and preventing the spread of such disease; and that notwithstanding there may be no appropriation then available for such purpose, or the sum authorized may be in excess of any such appropriation or in excess of any limit of expenditure for the current fiscal year theretofore fixed by

said board or body, or by any law of this State; said board or body may also from time to time as the exigency of the case shall require, authorize further expenditure for the purpose aforesaid.

4. That said sum or sums, the expenditure of which shall be so authorized, shall be expended under the direction of the local board of health (if there be such a board), and if not, then under the direction of the board or body authorizing such expenditure.

How expenditure provided for.

As amended April 22, 1902.

P. L. 1902, p. 788.

May issue bonds.

5. For the purposes of this act, the board or body authorizing such expenditure may bind the credit of the county, city, borough, village, town or township, as the case may be, and may borrow money, if required, on temporary loan in a sum sufficient to pay the debts so contracted, and moneys borrowed and expended for the purposes aforesaid shall be included in the next annual tax levy thereafter made; or, in case it shall appear to the said body or board authorizing such expenditure that the sum of money so expended for the purpose aforesaid is too large to be conveniently included in a single tax levy in connection with other amounts required by law to be included in annual tax levies, then it shall be lawful for such board or body to raise the amount so expended, either in whole or in part, by the issue of bonds to be made and issued by said body or board so authorizing such expenditure, under the corporate seal of said board or body, to be signed by the mayor or other presiding officer of the county, city, borough, village, town or township, as the case may be, and to be attested by the clerk thereof; said bonds shall be in such denominations and for such amounts as the said board or body directing the issuing of the same shall direct, and shall bear such rate of interest as may be agreed upon, not to exceed the legal rate of interest, and they shall be payable at such time or times as the said board or body may, by resolution, prescribe, and they shall not be liable to any tax that may be assessed or levied in the municipality in which they shall be issued or held; the interest thereon shall be payable semi-annually; *provided*, that such bonds shall not be issued in any case unless a majority of the whole number of the said board or body authorized to issue the same shall, by resolution, concur in the issuing of the same, and that no bonds shall be disposed of at less than the par value thereof; said bonds shall state on their face the resolution of the said board or body authorizing such expenditure and the issuing of said bonds; payment of the principal and interest of the said bonds shall be provided for by the levy and assessment of taxes in said municipality authorizing the issuing of the same in the manner other taxes are assessed and levied; in case such municipality or any board or department thereof shall have revenues from any source not required in any year when such interest or principal sum shall become due and payable for the payment of obligations of the said municipality, then such revenues may, by order of the said

Proviso.

Provision for payment of principal and interest.

board or body, be applied to the payment of the interest and principal of such bonds or so much and such parts thereof as may be due and payable; and the custodian of such revenues is hereby, upon receipt of a copy of such order, authorized to pay to the treasurer of such municipality, for the purpose of meeting such payments of interest and principal, such revenues aforesaid as shall be required for the said purpose and not required for the payment of other obligations of the said municipality.

6. That if more money shall be raised than shall be expended for the purpose aforesaid, the excess shall be applied upon the bonded debt of the city, borough, village, town or township, as the case may be, or, if there be no bonded debt, then such excess shall be allowed for in fixing the appropriations for the next fiscal year and reduce the same accordingly.

An Act for the prevention of blindness in the State of New Jersey.

Approved March 11, 1895.

1. That should one or both eyes of an infant become inflamed, swollen or reddened, or show any unnatural discharge at any time within two weeks after its birth, and no legally-qualified practitioner of medicine be in attendance upon the infant at the time, it shall be the duty of the midwife, nurse, attendant or relative having charge of such infant to report the fact in writing, within six hours, to the local board of health of the city, township or other municipality in which the parents of the infant reside.

2. That the said local board of health shall direct the parents or person having charge of such infant suffering from such inflammation, swelling, redness or unnatural discharge of the eyes to immediately place it in charge of a legally-qualified practitioner of medicine, or in charge of the physician of the city, township or other municipality if unable to pay for medical services.

3. That every local board of health in the State of New Jersey shall furnish a copy of this act to every legally-qualified practitioner of medicine, and to each person who is known to act as a midwife or nurse, in the city, township or other municipality for which such board of health is appointed; and the Secretary of State shall cause a sufficient number of copies of this act to be printed, and to supply the same to such officers for distribution.

4. That any failure to comply with the provisions of this act shall be punished by a fine not to exceed two hundred dollars, or imprisonment not to exceed six months, or both, upon conviction under prosecution proceedings to be brought by any local board of health.

Gen. Stat., p. 1676.

Persons having charge of infants shall report to local board of health.

Local board shall cause infant to have proper medical attendance.

Copies of this act shall be furnished to physicians, midwives and nurses.

Secretary of State shall provide copies of this act.

Penalty for non-compliance.

An Act for the protection of the public health.

Gen. Stat., p.
1677.

Physician
shall report
cases of con-
tagious and
communica-
ble diseases.

Setting forth
certain facts.

In absence of
any physician
houseowners
and house-
holders shall
report.

Physician or
person mak-
ing report
shall be enti-
tled to fee.

Penalty for
neglect to
perform this
duty.

Officer to
whom report
is made shall
record the
same.

Approved March 22, 1895.

1. That every physician shall, within twelve hours after his first professional attendance upon any person who is suffering from cholera, yellow fever, typhus fever, leprosy, plague, trichinosis, small-pox, varioloid, enteric (or typhoid) fever, diphtheria, membranous croup, scarlet fever, or any other contagious, infectious or communicable disease which hereafter may be publicly declared by the State Board of Health to be preventable and specially dangerous to the public health, report such sickness to the clerk of the local board of health having jurisdiction over the territory within which such sickness may be, or if such local board of health shall have designated some other officer thereof to receive such reports, then to such officer, which report shall be in writing, signed by such physician, and shall set forth the name, age and precise location of the person suffering from such disease; and every houseowner or householder who knows that any person living, dwelling or being in any building under his control is affected by any of the contagious, infectious or communicable diseases hereinabove specified or referred to shall, when no physician has professionally attended such sick person, within twelve hours after discovering the same, report the fact in writing to the same person and in the same manner as any physician attending such sick person would be required to do as hereinabove set forth; and on the thirtieth day of June and the thirty-first day of December in each and every year every physician, houseowner and householder making any report or reports as in this section required, shall be entitled to receive from the officer to whom such report or reports shall have been made during the preceding six months, a certificate in writing under the hand of such officer, setting forth the number of names of persons reported to have been affected with any of the diseases hereinabove specifically named or referred to, which certificate when presented by such physician, houseowner or householder to the proper disbursing officer of the city, borough, town or other local municipal government or township within which such affected person may have been, shall entitle such physician, houseowner or householder to receive from such disbursing officer the sum of ten cents for each and every name by such certificate certified to have been reported, unless such notification shall be found to have been erroneous; and any physician, houseowner or householder who shall refuse or neglect to perform the duty hereinabove required of him shall be liable to a penalty of fifty dollars.

2. That the facts contained in every report filed with the clerk or other officer of any local board of health, pursuant to the provisions of the first section of this act, shall be entered by the officer to whom the same shall be delivered in a book kept exclusively for that purpose, which book shall be subject

to the inspection of the local board of health and its proper officers, and to the State Board of Health and its officers only; the officer of the local board of health to whom such report shall be delivered, and whose duty it is to make record of same, as in this section above set forth, shall also, at least once in each week, and daily when required by the State Board of Health, transmit the facts stated therein by mail to the Board of Health of the State of New Jersey, at Trenton, and shall further keep the said State Board of Health constantly informed concerning the measures which are employed by the local board of health to prevent the spread of the diseases in such reports mentioned, which facts and information shall be conveyed to the said State Board of Health in writing, and upon such blank forms as may be furnished by the said State Board of Health; any officer whose duty it is to make any report to said State Board of Health, as in this section above provided, and who neglects or fails to perform such duty, shall be liable to a penalty of fifty dollars for each and every such neglect or failure of duty.

Officer of local board shall report to State board.

Shall further advise State board.

Penalty.

3. That it shall be unlawful for any common carrier to accept for transportation, or to transport or carry within this State any person affected with any of the contagious, infectious or communicable diseases named or referred to in the first section of this act, or any infected article or articles of clothing, bedding or other property whatsoever, or the body of any person who shall have died of said contagious, infectious or communicable diseases, except the same be inclosed in an hermetically-sealed casket, and except a license for such transport be first obtained in writing from the local board of health of the municipality or township in which the said infected person, infected articles or dead body may be located; and any common carrier knowingly violating any of the provisions of this section shall be liable to a penalty of one hundred dollars.

Common carriers shall refuse transportation to affected persons or their clothing.

Exception.

Penalty.

4. That if the Board of Health of the State of New Jersey shall ascertain any vaccine virus, antitoxin or other animal product sold, or offered for sale, or held for sale or use within this State for prophylactic or remedial purposes, to be dangerous to human health, or so impure or inert as to be inefficacious in rendering immune or less susceptible to disease any person in whom such product may be used, it shall be lawful for the said Board of Health of the State of New Jersey to prohibit the further sale or use within this State of any vaccine virus, antitoxin or other animal product, as aforesaid, manufactured or produced by the party who shall have manufactured or produced such dangerous, inert, impure or inefficacious product; any person who shall, after such prohibition, and with knowledge thereof, sell, or offer for sale, or use, or offer for use within this State any such prohibited product shall be liable to a penalty of one hundred dollars.

Impure, inefficacious or dangerous remedies shall be prohibited.

Penalty.

5. Any penalty incurred under any of the provisions of this act may be recovered, with costs, in a summary proceeding, either in the name of the Board of Health of the State of New

Recovery of penalty.
As amended.
P. L. 1898, p. 162.

Approved
March 23,
1898.

Duty of cer-
tain officers.

In case of
judgment.

Application
of moneys
recovered.

Jersey or in the name of the local board of health of the township, city, borough, town or other local municipal government within whose jurisdiction the penalty may have been incurred; it shall be the duty of any health inspector, registrar of vital statistics or member of any local board of health, who shall know or be informed of any violation of this act, whereby any penalty may have been incurred, to make, and any other person having such knowledge may make, under oath or affirmation, a complaint against the person incurring such penalty, setting forth the facts of such violation, which complaint shall be filed with the clerk of the district court or any justice of the peace of the county within which the offense may have been committed, or with any police justice or recorder of the township, city or municipality within which any local board bringing suit shall have jurisdiction, and the clerk of the district court, the justice of the peace, police justice or recorder with whom any complaint shall be filed as aforesaid, setting forth facts sufficient to show that any penalty prescribed by this act has been incurred, is hereby authorized and required to issue process, either in the nature of a summons or warrant, which process, when in the nature of a warrant, shall be returnable forthwith, and, when in the nature of a summons, shall be returnable in not less than five nor more than fifteen days; on the return of such process, or at any time to which the trial shall have been adjourned, the said court, justice of the peace, police justice or recorder shall proceed to hear the testimony and to determine and give judgment in the matter without the filing of any pleadings, and, if judgment shall be given in favor of the plaintiff, execution shall be forthwith issued against the goods and chattels of the defendant for the amount of the penalty, with costs; the officers to serve and execute any process or execution issued as aforesaid shall be the constables of the county, which service and execution, in the case of any execution issued out of a district court, shall be made in the same manner and under the same liabilities as other executions issued out of said court are served and executed; the officers to serve and execute any process or execution issued by a justice of the peace, police justice or recorder shall be the constables of the county, which service and execution shall be made in the same manner and under the same liabilities as prescribed in cases of the service and execution of process and executions by the act entitled "An act constituting courts for the trial of small causes," and the supplements thereto; all moneys recovered in any such proceeding shall be paid to the plaintiff therein and applied by such plaintiff to any purpose for which it may be legally authorized to expend money.

An Act concerning the enforcement of the health code and ordinances and regulations of the local boards of health in cities, towns, townships or other municipalities of this State wherein sewers are now or hereafter may be constructed.

Approved May 12, 1896.

P. L. 1896, p. 345.

1. In all cities, towns, townships and other municipalities of this State wherein there are now or hereafter may be sewers constructed for the purpose of carrying off the sewage of such cities, towns, townships and other municipalities, or in streets or sections of such cities, towns, townships and other municipalities, the owners of property along the line of any such sewers shall be compelled to connect their houses and other buildings therewith, in compliance with the ordinances, rules and regulations of any local board of health now or hereafter to be made for that purpose.

Owners of property to be compelled to connect with sewers.

2. The provisions of this act shall be enforced in the cities, towns, townships and other municipalities of this State, subject to the provisions hereof, by the local boards of health in every such city, town, township or other municipality, by a fine of twenty-five dollars against any delinquent who shall not comply with the terms of any such ordinance, by-law or regulation within thirty days after the notification to make the aforesaid connection or connections, by the proper officer of the local boards of health aforesaid, and an additional fine of ten dollars for each and every day after the said thirty days in which the provisions of this act and of such notice shall not be complied with.

Provisions of act to be enforced by local boards of health.

An Act authorizing the construction of sewers or drains in certain cities, when necessary to preserve the public health, although the limit of authorized expenditure for public improvements in such cities would thereby be exceeded.

Approved March 25, 1881.

Gen. Stat., p. 1661.

1. That whenever the board of health in any city of this State shall, after due examination and consideration, determine, by resolution in writing, adopted or concurred in by two-thirds of the members of said board, that it is necessary for the preservation of the public health, or the prevention of the cause or spread of disease, that a sewer or drain, or sewers or drains, should be constructed in any locality in said city, and shall certify to the common council or other legislative or governing body of such city such resolution and the reasons for which it was adopted, then said common council or other legislative or governing body, if in their judgment such sewer or drain, or such sewers or drains seem to be necessary as a sanitary measure, may construct or order, direct and cause such sewer or drain, or sewers or drains, to be constructed, although the limit of authorized expenditures for public improvements in such city would thereby be exceeded; *provided*, that such excess of

When common council, etc., may exceed limit of authorized expenditure to construct sewers, etc.

expenditure shall not in any case exceed the sum of fifty thousand dollars in any one year.

(For other sections, see Gen. Stat., p. 1661.)

An Act empowering boards of health in any incorporated municipality in this State to pass and enforce ordinances regulating scavengers.

P. L. 1898, p. 164.

Enforce ordinances regulating scavengers.

Passed March 24, 1898.

1. In all incorporated municipalities of this State having a board of health, or other body possessing similar powers or functions, it shall be lawful for such board of health or other body to pass and enforce such ordinance or ordinances as to said board or other body may seem meet, for the purpose of regulating the business of emptying privy vaults, sinks, cess-pools, in any such municipality.

Penalty.

2. All such boards of health or similar bodies are hereby empowered for the purposes of enforcing any such ordinances to provide a penalty for the violation of any of the provisions of any such ordinance, not exceeding fifty dollars, to be enforced in any court in any such municipality having the jurisdiction and power to enforce municipal ordinances and penalties incurred by any person for violation thereof.

An Act to provide for the regulation and control of the slaughter of horses and the sale of horse flesh for food.

P. L. 1899, p. 517.

Additional powers given local boards of health.

Approved March 24, 1899.

1. Local boards of health shall have power to pass, alter and amend ordinances for the following purposes in addition to the purposes now authorized by law:

I. To regulate and control the sale of horses for food, to provide for their inspection both before and after slaughter, and to provide for the granting of permits to carry on the business of slaughtering horses for food;

II. To regulate and control the manner of constructing, repairing, furnishing and caring for houses and buildings used, or intended to be used, for the slaughter of horses in all matters relating to their sanitary condition, and to regulate and control the locating of such houses and buildings.

Penalty for violation of ordinances; how recovered.

2. Any local board of health may prescribe a penalty, not exceeding one hundred dollars, for the violation of any ordinance or any section of any ordinance adopted under the authority of this act, which penalty shall be recoverable in the same manner as any penalty may be recovered for the violation of any ordinance adopted under the provisions of the act entitled "An act to establish in this State boards of health and a bureau of vital statistics, and to define their respective powers and duties," approved March thirty-first, eighteen hundred and eighty-seven, and the supplements thereto.

"Horse flesh" so designated.

3. No person shall sell, or offer or expose for sale, or in anywise aid in selling, or offering or exposing for sale, any

horse flesh unless every carcass, piece and parcel of horse flesh so sold, or offered or exposed for sale, shall have conspicuously attached thereto a label or tag not less than three inches wide and four inches long, on which shall be printed or stamped, in letters not less than one inch in height, the words "horse flesh;" and any person who shall violate any of the provisions of this section shall be liable to a penalty of one hundred dollars; every such penalty may be recovered, with costs, in a summary proceeding either in the name of the Board of Health of the State of New Jersey or in the name of the local board of health of the township, city, borough, town or other local municipal government within whose jurisdiction the penalty may have been incurred; it shall be the duty of any inspector appointed by the State Board of Health, and of any member of any local board of health, and of any local health inspector, who shall know or be informed of any violation of any of the provisions of this act, to make, and any other person having such knowledge may make, under oath or affirmation, a complaint in writing against the person or persons, copartnership of persons or corporation incurring such penalty, setting forth the facts of such violation, which complaint may be on information and shall be filed with the clerk of any district court or with any justice of the peace of the county within which the offense may have been committed, or with any police justice or recorder of the city or other municipality within which any local board of health bringing suit shall have jurisdiction; and the clerk of the district court with whom any such complaint shall be filed, upon the order of the judge thereof, and the justice of the peace, police justice or recorder with whom any such complaint shall be filed, is hereby authorized and required to issue process in the nature of a summons when the complaint is on information, and in other cases either in the nature of a summons or warrant, which process, when in the nature of a warrant, shall be returnable forthwith, and, when in the nature of a summons, shall be returnable in not less than five nor more than fifteen days; on the return of such process, or at any time to which the trial shall have been adjourned, the said court, justice of the peace, police justice or recorder shall proceed to hear the testimony of witnesses and the proofs in the case, and to determine and give judgment in the matter without the filing of any pleadings, and, if judgment shall be given in favor of the plaintiff, execution shall forthwith issue against the goods and chattels and person of the defendant or defendants for the amount of the penalty, with costs; the officers to serve and execute any process or execution, issued as aforesaid, shall be the constables of the county, which service and execution, in the case of any process or execution issued out of a district court, shall be made in the same manner and under the same liabilities as other processes and executions issued out of said court are served and executed; the officers to serve and execute any process or execution issued by a justice of the peace,

Penalty for
failure to
do so.

Duty of
health
inspector.

Process
issued.

Hearing.

Costs
recoverable.

police justice or recorder shall be the constables of the county, which service and execution shall be made in the same manner and under the same liabilities as other processes and executions issued out of the courts for the trial of small causes; the costs recoverable in any case prosecuted in a district court shall be the same as in other cases prosecuted in said court, and in any case prosecuted before a justice of the peace, police justice or recorder they shall be the same as are allowed in cases prosecuted in the courts for the trial of small causes; the penalty recovered in any such action shall be paid to the plaintiff therein and applied by such plaintiff to any purpose for which it may be legally authorized to expend money.

Adjourn-
ment; give
bond for
appearance.

4. The judge of the district court, justice of the peace, police justice or recorder before whom any case is prosecuted under the next preceding section of this act may adjourn the hearing thereof from time to time, not exceeding thirty days from the return day of the summons or warrant, and in any case where a warrant shall have been issued may require the defendant or defendants to enter into a bond with sufficient surety to the plaintiff in the penal sum of two hundred dollars, conditioned to appear at the time and place of the hearing or trial, and in default of such bond may commit the defendant or defendants to the common jail of the county, to be there detained until the hearing or trial of the complaint; and if the defendant or defendants shall fail to appear at the time and place to which the hearing or trial shall be so adjourned, the bond shall be delivered to the plaintiff, who may sue thereon and apply the moneys recovered in such suit to any purpose to which it may be legally authorized to expend money.

Form of
conviction.

5. The conviction in prosecutions under the next preceding section of this act shall be in the following or similar form:

"State of New Jersey, county of ———, ss.—Be it remembered that on this ——— day of ———, A. D. 18—, at ———, in said county, C. D., defendant, was, by the district court of the city of T. [or, by me, E. F., justice of the peace, police justice or recorder of the city of ———, or as the case may be], convicted of violating the ——— section of 'An act to provide for the regulation and control of the slaughter of horses and the sale of horse flesh for food,' approved ———, 1899, in a summary proceeding at the suit of the local board of health of the township of A. [or as the case may be]; and further, that the witnesses in said proceeding who testified for the plaintiff were [name them], and the witnesses who testified for the defendant were [name them]; therefore, the said court [or justice of the peace, police justice or recorder, as the case may be] doth hereby give judgment that the plaintiff recover of the defendant one hundred dollars penalty and ——— dollars costs of this proceeding."

Conviction
signed.

The said conviction shall be signed by the judge of the district court, justice of the peace, police justice or recorder before whom the conviction is had.

**An Act concerning the transportation of dead human bodies
across or within this State.**

Passed March 23, 1900.

P. L. 1900, p.
387.

Transporta-
tion of bodies
in sealed
caskets.

1. It shall not be lawful for any undertaker, or for any other person whomsoever, to convey, or aid in conveying, to any railroad, or to any common carrier, to be transported across or within this State, nor for any common carrier to accept for transportation or to transport across or within this State, any human body dead of small-pox, Asiatic cholera, yellow fever, typhus fever or bubonic plague, except the same be enclosed in a hermetically sealed casket, and except a license for such transportation be first obtained in writing from the Board of Health of the State of New Jersey or from an officer or inspector of said board; and any person violating this section shall be liable to a penalty of one hundred dollars.

Penalty.

2. When any person or persons shall desire to transport by railroad or by any common carrier, across or within this State, the body of any person who shall have died within this State from any cause other than small-pox, Asiatic cholera, yellow fever, typhus fever or bubonic plague, it shall be the duty of such person or persons to obtain from the physician who shall have attended the deceased person during his or her last sickness, or from some other practicing physician in good and regular standing, duplicate certificates of death, each of which shall be signed by said physician, and each of which shall set forth particularly, to the best of such physician's knowledge, the name of the deceased, the names and place of birth of his or her parents, and his or her age, sex, color, nativity, occupation, whether married or unmarried, widower or widow, last place of residence, duration of residence in New Jersey, place, cause, date and hour of death and place of interment; such person or persons shall also obtain from the undertaker employed in such case duplicate certificates, each of which shall be signed by said undertaker, shall set forth that the body of the deceased person mentioned in the physician's certificate of death has been prepared by him for transportation in every particular as required for such cases by law and the rules of the Board of Health of the State of New Jersey, and shall contain an application for a permit to remove such body, stating the places from which and to which it is desired to convey the same, and the name of the person desired to accompany the body in its transit; any physician or undertaker who shall violate any of the provisions of this section by knowingly giving a false certificate shall be liable to a penalty of one hundred dollars.

Necessary
certificates
from physi-
cian and
undertaker.

Penalty for
false
certificate.

3. Upon presenting to and filing with the registrar of vital statistics of the township, city or municipality within which the death shall have occurred, one of the duplicate certificates of death and one of the undertaker's certificates mentioned in the next preceding section, it shall be the duty of such registrar

Registrar to
issue transit
permit.

Who is
registrar.

Penalty.

Transporta-
tion of bodies
within or
across State.

Certificate of
death.

In case no
certificate.

to issue a transit permit which shall set forth the facts contained in the physician's certificate of death and the undertaker's certificate, and shall set forth the places from which and to which the body may be transported, and the name of the person authorized to accompany the body in its transit; the registrar mentioned in this section shall, in every township, be the assessor, or in case of vacancy in his office or disability or absence, the township clerk; and in every city or other municipality such registrar shall be the registrar of vital statistics now provided by law, if any there be, and, if there be none, then the registrar mentioned in this section shall be the clerk of such city or municipality; any registrar who shall issue any transit permit prior to the filing with him of a physician's certificate of death and an undertaker's certificate as aforesaid, shall be liable to a penalty of one hundred dollars.

4. When any person or persons shall desire to transport, by railroad or by any common carrier, from any point without to any point within this State, or across this State, the body of any person who shall have died outside of this State from any cause, it shall be the duty of the undertaker or other person attending such body in its transit into or across this State, or shipping the same into or across this State, to bring with such body, or in case it be shipped by express to tack or otherwise attach to the outside of the box in which the body is encased, in such manner that the same may be removed therefrom without mutilation, a certificate of death made by the physician who attended such deceased person during his or her last sickness, or by some other practicing physician in good and regular standing, setting forth the particulars specified for physicians' certificates of death in the second section of this act in the case of persons dying within this State, and also a certificate from the undertaker of the form prescribed for undertakers' certificates in said section of this act; if no such certificate shall be brought with such body, or if the body be shipped by express and no such certificate be tacked or otherwise attached as aforesaid to the box in which the body is encased, then it shall be lawful for any railroad company or other common carrier to refuse to transport or to receive for transportation any such body until such certificates shall have been obtained; in any such case, however, if it be inconvenient to obtain a certificate of death from the physician who attended during his or her last sickness any deceased person who shall have died outside of this State, then any member, inspector or officer of any local board of health may, after due inquiry into the case, make a certificate of death in the form prescribed by the second section of this act and deliver the same to the person or persons applying therefor; and if there be no undertaker's certificate accompanying such body, and it be inconvenient to obtain the same, any member, inspector or officer of any local board of health, after personal examination of the box in which the body of the deceased person is encased, and being satisfied that

the same may be transported across or within this State without hazard to the public health, may, in cases not provided for in the first section of this act, also grant a transit permit for the transportation of such body across or within this State, naming the points from and to which such transportation may be made; in the case of any body transported into this State, for burial within this State, a certificate of death obtained in the manner in this section prescribed and the undertaker's certificate, or in lieu of such undertaker's certificate the transit permit issued in the manner in this section prescribed, shall be a sufficient permit for any burial intended to be made in any township of this State, and such certificate of death and undertaker's certificate or transit permit issued as aforesaid shall be transmitted by the undertaker or person acting as undertaker within five days after burial to the registrar of vital statistics for the township in which the burial is made; but if the burial be made in any city or other municipality, the said certificate of death and undertaker's certificate, or transit permit issued as aforesaid, shall be delivered to the registrar of such city or other municipality, and he shall thereupon issue a permit for such burial; in order to avoid delay in obtaining from the registrar of any city or other municipality of this State a permit for the burial of any person who shall have died outside of this State, a duplicate copy of the certificate of death, made and signed by any physician in this section authorized to make such certificate, and of the undertaker's certificate or the transit permit issued as aforesaid, may be forwarded in advance of the body to such registrar, upon the receipt of which such registrar may issue a permit for burial as aforesaid.

Burial
permit.

To avoid
delay.

5. It shall be the duty of the registrar of vital statistics in every township, city or other municipality of this State, on or before the fifteenth day of each calendar month, to transmit, by mail, to the State Bureau of Vital Statistics, at Trenton, in an envelope marked "vital statistics," all certificates of death and all the undertakers' certificates filed with him during the preceding month under the provisions of this act; and every such registrar, upon receiving a certificate from the medical superintendent of said bureau of the whole number of certificates of death and undertakers' certificates transmitted as aforesaid, shall be entitled to receive from the proper disbursing officer of the township, city or other municipality in which such registrar shall be an officer, the sum of ten cents for each death so returned, the receipt for which shall be attached to the said certificate of the medical superintendent, and no payment shall be made unless such certificate be produced; any registrar who shall refuse or neglect to transmit to said bureau all certificates of death and undertakers' certificates filed with him as aforesaid within the time hereinabove limited shall be liable to a penalty of one hundred dollars.

Certificate
forwarded to
State Bureau
of Vital
Statistics
by local
registrar.
As amended
March 22,
1901.
P. L. 1901, p.
380.

Registrar's
fee.

Blanks prepared and distributed.

6. The State Bureau of Vital Statistics shall cause to be prepared blank forms of physicians' certificates of death, undertakers' certificates and transit and burial permits, corresponding to the requirements of this act, which forms, together with such sections of this act and such instructions and explanations concerning this act as the said bureau may deem useful to persons having duties to perform under this act, shall be printed, supplied and distributed in the same manner as other blank forms are printed, supplied and distributed by said bureau.

Rules, etc.

7. The Board of Health of the State of New Jersey shall have power from time to time to make, alter and amend rules prescribing the manner in which human bodies, dead from any cause, and intended to be transported on any railroad or by any common carrier across or within this State, shall be disinfected, embalmed, enveloped or encased; *provided, however*, that all such rules shall be printed at the foot of, and referred to in, the blank forms of undertakers' certificates to be prepared as aforesaid.

Proviso.

Process issued upon complaint.

8. Every district court and every justice of the peace in any city or county and every police justice or recorder in any city is hereby empowered upon complaint under oath or affirmation made according to law that any person or persons has or have violated any of the provisions of this act to issue process, in the name of the Board of Health of the State of New Jersey, as plaintiff, for the use of the State of New Jersey if such suit shall be instituted by the said State Board of Health, or in the name of any local board of health of the township, city, borough, town or other local municipal government within whose limits the penalty may have been incurred as plaintiff for the use of said township, city, borough, town or other local municipal government if such suit shall be instituted by the said local board of health; said oath or affirmation, if made by any member, inspector or other officer of the State Board of Health or of any local board of health, may be upon information and belief; said process shall be in the nature of either a summons or warrant against the person or persons so charged; when in the nature of a warrant it shall be returnable forthwith, but before any warrant shall issue out of any district court, the judge thereof shall endorse upon the complaint an order in the following or similar words: "let a warrant issue in this case," to which said judge shall sign his name; and when in the nature of a summons, it shall be returnable in not less than one or more than ten entire days; such process shall state what section of the law is alleged to have been violated by the defendant or defendants; and on the return thereof or at any time to which the trial shall have been adjourned, the said district court, justice of the peace, police justice or recorder shall proceed to hear testimony, and to determine and to give judgment in the matter, without the filing of any pleadings, either for the plaintiff for the recovery of such penalty with cost, or for the

Nature of process.

Endorsement.

Testimony heard and judgment given.

defendant; such judgment shall be in the following or similar form: "State of New Jersey, county of — ss.: Be it remembered that on this — day of — in the year of our Lord nineteen hundred —, at — in said county, C. D., defendant, was by the district court of the city of T. (or, by me, E. F., justice of the peace, police justice or recorder of the city of —, or as the case may be) convicted of violating the — section of the act of the Legislature of the State of New Jersey entitled 'An act concerning the transportation of dead human bodies across or within this State,' approved the — day of — A. D. nineteen hundred, in a summary proceeding at the suit of the Board of Health of the State of New Jersey (or, of the local board of health of the township of A. or as the case may be); and, further, that the witnesses in said proceeding who testified for the plaintiff were (name them), and the witnesses who testified for the defendant were (name them); wherefore, the said court (or, justice of the peace, police justice or recorder, as the case may be) doth hereby give judgment that the plaintiff recover of the defendant one hundred dollars, penalty, and — dollars, costs of this proceeding, and that execution do issue against the goods and chattels of said defendant for the amount of said penalty and costs, and for want of sufficient goods and chattels whereon to levy and make the same, to take the body of the defendant and convey him to the common jail of the county and deliver him to the keeper thereof, to be there confined until the said penalty and costs be fully paid, or until he be thence delivered by due course of law." Said judgment shall be signed by the judge of the district court, justice of the peace, police justice or recorder giving the same; execution shall thereupon be granted by the court, justice of the peace, police justice or recorder giving the judgment, commanding the officer to whom the execution is delivered to levy and make the amount of the penalty and costs imposed by the judgment out of the goods and chattels of the defendant, and for want of sufficient goods and chattels whereon to levy and make the same, to take the body of the defendant and convey him to the common jail of the county and deliver him to the keeper thereof to be there confined until the said penalty and costs be fully paid, or until he be thence delivered by due course of law; *provided, however*, that no execution shall issue against the body of any female.

Form of judgment.

Execution.

Proviso.

Officers authorized to serve, etc., process.

9. The officers to serve and execute any process or execution issued as aforesaid shall be the constables of the county, which service and execution shall in all cases be made in the same manner and under the same liabilities that other processes and executions issued out of the district courts of this State are served and executed under and by virtue of the provisions of the act entitled "An act concerning district courts," approved June fourteenth, in the year eighteen hundred and ninety-eight; the costs taxable and recoverable in any case

Costs taxable

prosecuted as aforesaid shall be the costs allowed by the act last above mentioned in cases prosecuted in district courts; the penalty recovered in any such action shall be paid to the plaintiff therein and applied by such plaintiff to any purpose for which it may be legally authorized to expend money; the judge of the district court, justice of the peace, police justice or recorder before whom any case is prosecuted under the provisions of this section may adjourn the hearing thereof from time to time, not exceeding thirty days from the return day of the summons or warrant, and in any case where a warrant shall have been issued may require the defendant to enter into a bond with sufficient surety to the plaintiff in the penal sum of two hundred dollars, conditioned to appear at the time and place of the hearing or trial, and in default of such bond may commit the defendant to the common jail of the county, to be there detained until the hearing or trial of the complainant; and if any defendant shall fail to appear at the time and place to which the hearing or trial shall be so adjourned, the bond shall be delivered to the plaintiff, who may sue thereon and apply the moneys recovered in such suit to any purpose for which it may be legally authorized to expend money.

Hearing may be adjourned.

Bond.

Bond forfeited.

An Act to prevent the introduction into the State of New Jersey of communicable diseases by maritime vessels or maritime traffic.

P. L. 1900, p. 102.

To prevent communicable diseases being introduced.

Approved March 21, 1900.

When permit issued.

Penalty for violation.

1. No vessel infected with any communicable disease, and no vessel on board of which there may be any person, baggage, merchandise or materials infected with any communicable disease, shall be brought to any wharf in the State of New Jersey, and no person, baggage, merchandise or materials being so infected, or being on any vessel so infected, shall land or be landed at any place in this State, until a permit therefor shall have been granted in the manner required by the local board of health of the sanitary district within which it may be intended to bring such vessel to wharf, or within which it may be intended to land therefrom any such person, baggage, merchandise or materials; such permit shall not be granted until after such vessel, and the persons, baggage, merchandise and other materials thereon, shall have been examined, cleansed, ventilated and purified, and such quarantine period shall have been observed, as the regulations or special order or orders of the Board of Health of the State of New Jersey may require, which regulations and special orders said State board is hereby authorized to make and prescribe; any master or commander of any vessel who shall violate any of the provisions of this section, and every person who shall violate any of said provisions or aid in the violation thereof, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding three thousand dollars, or by imprisonment not exceeding the term of one year, or both, in the discretion

of the court before whom the conviction may be had; *provided*, *however*, that this section shall not apply to any vessel, or any person, baggage, merchandise or materials on board of any vessel, whose master or commander shall obtain a permit to land persons, baggage, merchandise and other materials, from any local board of health in this State under the provisions of the second section of this act, nor to any vessel, or any person, baggage, merchandise or materials on board of any vessel, coming into any port or place in the State of New Jersey where a health officer appointed by the Board of Health of the State of New Jersey under the provisions of the third section of this act may then be holding office.

2. No vessel coming from any foreign or domestic port, which shall pass any quarantine station, located at City Island or elsewhere in Long Island sound, or at Fort Wadsworth or elsewhere in New York bay, whose master or commander shall have obtained a written permit from the proper officer at any of said quarantine stations to proceed with his vessel to any place in the State of New Jersey, shall be brought to any wharf in this State, and no passenger, baggage, merchandise or other materials on board of any such vessel shall land or be landed at any place in this State, until such master or commander shall have deposited such permit at the office of the local board of health of the place of destination named in the permit, which deposit shall be made within twenty-four hours after receiving such permit, nor until said master or commander shall have received a permit to land said passengers, crew, baggage, merchandise and other materials, which permit shall be granted in the manner required by said local board of health; if said local board, or the officer acting for it, shall have no reason to believe that said vessel, or any of the persons, baggage, merchandise or materials thereon, is or are infected with any communicable disease, a permit to land said persons, baggage, merchandise and materials shall be granted forthwith upon the deposit of the permit issued by any quarantine officer as aforesaid, but if said local board, or the officer acting for it, shall have reason to believe that said vessel, or any person, baggage, merchandise or materials thereon, is or are infected with any communicable disease, then no permit to land shall be granted except subject to such regulations and special orders as may be prescribed or given by the Board of Health of the State of New Jersey; any master or commander of any vessel who shall violate any of the provisions of this section, and every person who shall violate any of said provisions or aid in the violation thereof, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding three thousand dollars, or by imprisonment not exceeding the term of one year, or both, in the discretion of the court before whom the conviction may be had; *provided, however*, that this section shall not apply to any vessel, or any person, baggage, merchandise or materials on board of any vessel, coming into any port or

Proviso.

Quarantine permit must be deposited with local board of health.

When permit to land immediately may be issued.

Detention.

Penalty for violation.

Proviso.

place in the State of New Jersey where a health officer appointed by the Board of Health of the State of New Jersey under the provisions of the third section of this act may then be holding office.

Health office
of port of
Perth Amboy.

3. The Governor of this State shall from time to time appoint a physician in good and regular standing as "health officer of the port of Perth Amboy," who shall hold office for the term of five years from the date of his appointment and have the powers, perform the duties and be entitled to demand and receive the fees in this act prescribed; and whenever, in any time of threatened epidemic or injury to the public health of this State, the board of health of this State shall consider that a health officer should be temporarily appointed for any other port or maritime place in this State, said State board may appoint a competent person as such health officer, who shall hold office during the pleasure of said State board, shall exercise all the powers conferred upon, and perform all the duties required of, local boards of health by the first and second sections of this act, shall wholly supersede the local board of health having jurisdiction of the place for which he may be appointed in the exercise of such powers and the performance of such duties, and shall be entitled to demand and receive the fees prescribed by this act; said State board shall also have the power from time to time to adopt, alter and amend regulations prescribing the manner and form in which local boards and health officers appointed as aforesaid shall exercise the powers conferred upon and perform the duties required of them by this act, to require from said local boards and health officers such reports from time to time as it may deem expedient, and to revoke, modify, supplement or supersede any order given or act done under the provisions of this act by any local board of health or health officer by such other order or orders as the said State board may deem the necessities of any particular case to require.

Temporary
health
officers.

Power to
alter, etc.,
regulations.

Concerning
vessels
coming from
southern
ports, etc.

4. Every vessel which, between the first day of March and the first day of December in any year, or within any other time in any year designated by resolution of the Board of Health of the State of New Jersey, shall come from any port in the United States south of Cape Henlopen, or from any West India, Bahama or Bermuda island port, or from any port or place where any communicable disease exists, into that portion of the waters of this State known as Raritan bay or Sandy Hook bay south of a straight line extending from Ward's point to the northerly extremity of Sandy Hook, and every vessel at any time coming into said waters on board of which any person shall have died while at any port in the United States south of Cape Henlopen or at any foreign port, or while between any such port and said Raritan bay or Sandy Hook bay, or on board of which there are contained any baggage, merchandise or materials by which any communicable disease may be introduced into this State, or on board of which the health officer of the port of Perth Amboy shall have reason to believe that

any person or persons may be sick with any communicable disease, or on board of which such health officer shall have reason to believe there may be any baggage, merchandise or materials by which any communicable disease may be introduced into this State, shall come to anchor at some place designated by said health officer of the port of Perth Amboy, which anchorage place shall be southward of a straight line extending from the south ferry wharf in Perth Amboy to the house on Staten island formerly of Caleb Ward, as well as southward and eastward of a straight line extending from the said south ferry wharf to the most easterly wharf of South Amboy; and any master or commander who shall refuse, neglect or fail to bring to anchor at the place designated as aforesaid any such vessel as aforesaid, of which he may be master or commander, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding three thousand dollars, or by imprisonment for a term not exceeding one year, or both, in the discretion of the court before whom the conviction may be had.

Penalty for violation.

5. Whenever any vessel subject to the provisions of the next preceding section of this act shall arrive at any anchorage place designated as aforesaid, it shall be the duty of the health officer of the port of Perth Amboy and he shall have the power, subject to such regulations and special orders as the Board of Health of the State of New Jersey may from time to time make or prescribe, to visit said vessel and examine into the sanitary conditions thereof, and of all persons, baggage, merchandise and materials on board thereof; to order such vessel, and all baggage, merchandise and materials on board thereof, to be cleansed, ventilated and purified under his supervision and direction, and to that end to require such vessel to be unloaded; to order such vessel to be detained at quarantine for such period after the vessel, and the baggage, merchandise and materials on board thereof, shall have been so cleansed, ventilated and purified, as the regulations or any special instruction of the Board of Health of the State of New Jersey may require; to prescribe quarantine stations for vessels; to prohibit and prevent communication with infected vessels; to detain and isolate all infected persons; to grant permits to land passengers, crews, baggage, merchandise and other materials; to grant permits to discharge cargoes into lighters or otherwise; to release vessels from quarantine, and to give such other orders as he may deem necessary for the prevention of the introduction into this State of any communicable disease; it shall be the duty of the master or commander, or any other person in charge, of any vessel concerning which, or concerning the persons, baggage, merchandise or other materials on board of which, any such order may be given by said health officer, or by the Board of Health of the State of New Jersey, to cause the order to be forthwith obeyed; and any master or commander,

Duty and power of health officers.

Penalty for
not comply-
ing with
order.

or other person in charge of any such vessel, who shall refuse, neglect or fail to perform such duty, and any master, commander or other person who shall violate any order or permit given as aforesaid, and every person who shall aid in any such violation, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding three thousand dollars, or by imprisonment for a term not exceeding one year, or both, in the discretion of the court before whom the conviction may be had.

Fees allowed
health
officers.

6. Every health officer appointed as aforesaid is hereby authorized to ask, demand and receive, from the master or commander of any vessel in respect of which any of the duties prescribed by this act shall be performed, the following fees: For examination of every vessel from a foreign port, five dollars; for examination of every vessel from any port in the United States south of Cape Henlopen, if a steamer, three dollars, and if other than a steamer, one dollar; for medical examination of every one hundred, or fraction of one hundred, steerage passengers upon transatlantic vessels, two dollars; for each permit granted for the landing of persons, baggage, merchandise and other materials, or discharging cargoes, and every release of a vessel from quarantine, twenty-five cents; for sanitary inspection of every vessel after the discharge of cargo or ballast, ten dollars; for disinfection of every vessel from an infected port, and of every vessel that shall require disinfection by reason of exposure to infection or contagion, fifty dollars; and for vaccination of persons on board of any vessel on which small-pox has developed during the voyage, each twenty-five cents; each health officer appointed as aforesaid shall keep a record of all fees received by him under the provisions of this act, and if in any calendar year the total amount of fees so received by the health officer of the port of Perth Amboy shall be less than one thousand two hundred and fifty dollars, he shall, on presenting to the Board of Health of the State of New Jersey an itemized statement of the fees received by him for such year, duly verified by his affidavit, be entitled to receive out of the moneys appropriated to said board for payment to said health officer (if any such appropriation for such payment be made) a sum sufficient to raise his compensation for services during such year to the sum of one thousand dollars, and to pay to one deputy health officer of said port the sum of two hundred and fifty dollars.

Record kept.

Compensation.

Deputies.

7. The said health officer of the port of Perth Amboy is hereby authorized to appoint one or more deputies who, in the absence of such health officer, shall exercise the powers and perform the duties of the health officer; but before the appointment of any such deputy shall become effective, such appointment shall be approved by the secretary of the State Board of Health; every such deputy shall hold office during the pleasure of the health officer, subject, however, to the revocation of his appointment at any time by the State Board of

Health or by its secretary; said health officer shall compensate every such deputy for his services out of the fees allowed by this act.

8. The local board of health of any place in this State, excepting the local board of health of any place for which a health officer may be holding office under the provisions of the third section of this act, shall have power, whenever in its judgment the protection of the public health requires such action, to order the master or commander of any vessel within its jurisdiction to remove such vessel to some quarantine station or other place of safety to be designated by said board, and to order all persons, baggage, merchandise and materials which have been landed from such vessel to be seized and returned to said vessel or taken to some other place of safety to be designated by said board; if such master or commander cannot be found, or if he shall refuse or neglect forthwith to obey any such order, said local board may employ such assistance as may be necessary to effect such removal; and said master or commander shall not thereafter bring such vessel to any landing place within the limits of the jurisdiction of said local board, or land any person, baggage, merchandise or materials from such vessel at any place within said jurisdiction, until a permit therefor shall have been granted by said local board; any master or commander who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding three thousand dollars, or by imprisonment not exceeding the term of one year, or both, in the discretion of the court before whom the conviction may be had.

9. All expenses incurred by, and all fees becoming due to, any health officer or any local board of health, or any of their employes, for services rendered or duties performed under the provisions of this act, or under any regulations prescribed by the State Board of Health, shall be paid by the master, commander or owner of the vessel in relation to which such duties shall be performed or services rendered; and every health officer, local board of health and employe to whom any moneys shall be due on account of any such expenses or fees shall have a lien for the amount thereof, and for all costs of suit and such counsel fee for the plaintiff as the court in its discretion may allow, upon such vessel, its tackle, apparel and furniture, and if payment be not forthwith made on demand therefor, such lien may be enforced by a suit in admiralty, or other proper suit, in any court of competent jurisdiction.

10. The following acts are hereby repealed: "An act to provide for the security of the citizens of this State against the introduction of contagious diseases," passed November nineteenth, seventeen hundred and ninety-nine; "An act to prevent the introduction of malignant and other infectious diseases into this State," approved April fourth, eighteen hundred and seventy-one, and all acts supplementary thereto; and "An act to prevent the introduction of dangerous, infectious, epidemic

Power of local board of health in certain instances.

Penalty for non-compliance.

Expenses and fees, by whom paid; lien on vessel, etc.

Acts repealed.

and pestilential diseases into the State of New Jersey, and to improve the present system of maritime quarantine," approved April ninth, eighteen hundred and ninety-seven.

Supplement.

Approved August 8, 1906.

P. L. 1906, p.
727.

Salary of
health officers
at Perth
Amboy.

1. The health officer of the port of Perth Amboy, in lieu of the fees prescribed by the act to which this act is a supplement, shall be paid yearly, by the Comptroller of the Treasury of the State of New Jersey, a salary of one thousand dollars. The deputy health officer of said port designated by said health officer shall be paid yearly a salary of two hundred and fifty dollars.

Fees turned
in to State.

2. All fees collected by said health officer or deputy, under the provisions of the act to which this act is a supplement, shall be paid monthly by said health officer to the Treasurer of this State, together with a full account of all such fees collected during the preceding calendar month.

An Act for the protection of the public health and the prevention of the spread of contagious or infectious diseases.

Approved April 9, 1902.

P. L. 1902, p.
679.

Removal of
persons and
property in-
fected with
contagious
disease.

1. The State Board of Health, any county board of health and any local board of health, or a majority thereof, shall have power to remove or cause to be removed from any hotel, boarding house, boarding school or other building of like character, tenement or apartment houses, to a proper place to be designated by such board, persons sick with any contagious, infectious or pestilential disease, and such boards shall also have power to remove, or cause to be removed to a proper place to be so designated, all things and articles within the jurisdiction of such boards, which, in their opinion, shall be infected with any matter likely to communicate disease to the inhabitants of any county or other municipality of this State, and said boards may destroy, or cause to be destroyed, such articles and things, when in their opinion the safety of the public health requires it; *provided, however*, that no person shall be removed under this act, except after examination and determination by two physicians in good standing and practice, that such person is sick with a contagious, infectious or pestilential disease; *provided, however*, that nothing herein contained shall be construed to authorize or permit the erection of any hospital by any municipality, or its board of health, or by any of its boards or agents, outside of its own boundaries, except under the restrictions and limitations now fixed by law.

Proviso.

Proviso.

Delegate
authority to
medical
inspector.

2. The boards of health above mentioned may, by resolution, delegate the authority herein conferred to any medical inspector in the employ of such boards, and such authority when so con-

ferred shall be exercised in the same manner, to the same extent, and with the same limitations as by the said boards of health.

3. For the purposes of this act, "tenement" or "apartment" house shall be construed to mean any building used as a dwelling by more than two families at the same time.

"Tenement" and "apartment" construed.

An Act to provide for the security of the citizens of this State against the introduction of contagious diseases.

Passed November 19, 1799.

Gen. Stat., p. 1671.

1. That it shall and may be lawful for the Governor of the State, for the time being, upon application to him made by the executive or other competent authority, in the states of Pennsylvania or New York, of any vessel infected with a malignant disease, and performing quarantine under the laws of the said states of Pennsylvania or New York, being then in the rivers Delaware or Hudson, or the waters adjacent to the city of New York, to issue his proclamation forewarning all citizens of this State from entering on board of or having any communication with such infected vessel; and if any person or persons shall, after the publication of the said proclamation, and in contravention thereof, enter on board of any such vessel so as aforesaid described in the said proclamation, or be in any way concerned in bringing to the shores of this State any goods, merchandise, bedding or clothing, he, she or they, for every such offense, shall, on conviction thereof, in due course of law, be fined in any sum not exceeding three hundred dollars, at the discretion of the court before whom such conviction shall be had.

In what cases the Governor shall issue his proclamation, prohibiting all communication with certain infected vessels.

An Act authorizing the appointment of boards of health in cities of the first class, and defining their powers and duties.

Approved March 29, 1904.

P. L. 1904, p. 343.

1. In all cities of the first class the board of health of such cities shall consist of ten members, citizens of said city, at least one-half of whom shall be practicing physicians; no more than one-half of said members shall belong to the same political party; they shall be appointed by the mayor of such city within thirty days after this act goes into effect or becomes applicable, and such appointments shall be confirmed by the board, body or authority having charge of the finances in such city; the members appointed under this act shall be divided into classes as to their terms of office: one class of three members, to hold office for one year; one class of three members, to hold office for two years, and one class of four members, to hold office for three years; and thereafter all appointments shall be for the term of three years; any vacancy in such board shall be filled for the unexpired term only.

Bi-partisan board of health.

Divided into classes.

2. The term of office of all officers and employes appointed by boards of health in any such city shall cease and determine

Term of existing officers to cease.

at the time of the organization of the board appointed and constituted under this act.

Powers,
duties, etc.

3. The board of health organized and constituted as provided in this act is hereby authorized to have charge of, to control, manage and operate the public hospitals and dispensaries owned or maintained by such city, and to appoint or employ all officers or employes necessary for the carrying out of the purposes of this act; and said board is also hereby vested with all the powers now vested in local boards of health in cities of the first class in this State; and the board provided for by this act shall be subject to all the liabilities now or hereafter conferred upon boards of health in such cities by the laws of this State; and all ordinances, rules and regulations heretofore adopted or passed by any local board of health in such city, which might be adopted or passed under the authority of this act shall continue to be the ordinances, rules and regulations of such board and shall be of the same force and validity as if they had been actually adopted or passed under the provisions and authority of this act, until the same are repealed or changed.

May enact,
repeal, etc.
ordinances.

4. Such boards of health in such cities are hereby authorized to pass, enact, alter, amend and repeal ordinances relating to the public health of such cities, and to fix the amount of fines and penalties for the violation of said ordinances, and provide for the collection, appropriation and disbursement of the same.

No com-
pensation.

5. The commissioners appointed under and by virtue of this act shall receive no compensation for their services as members of such board.

When present
board may be
continued.

6. In any city of the first class in this State in which there is a board of health consisting of ten members, which shall have been constituted in substantial conformity with the provisions of this act, such board of health shall be deemed, taken and held to be a board of health created under the provisions of this act, and every such board of health is hereby perpetuated and continued and is hereby authorized, without reorganization, to exercise all the powers and required to perform all the duties applicable to boards of health mentioned in this act; but any vacancy in such board shall be filled as in this act provided.

Vacancies,
how filled.

Repealer;
exception.

7. All acts and parts of acts, general or special, inconsistent with this act, are hereby repealed, but nothing herein contained shall repeal or alter the provisions of an act entitled "An act to authorize cities in this State to construct hospital buildings and to purchase land therefor," approved April seventh, one thousand nine hundred and three, but said act shall remain in full force and effect until the construction and furnishing of the hospital buildings therein provided for shall have been completed by the body now authorized by said act to complete the same; and this act shall take effect immediately.

An Act to provide for the free distribution of diphtheria antitoxine to the inhabitants of this State.

WHEREAS, The preparation known as diphtheria antitoxine has become of vital importance in the treatment and prevention of the spread of diphtheria; but, by reason of the cost at which the same may be purchased, it is impracticable to use the same to any great extent; therefore,

Approved April 5, 1904.

Preamble.

1. The State Board of Health shall enter into a contract with some responsible manufacturer to supply free of charge, upon the certificate of the attending physician, to such indigent patients as shall require the same such antitoxine as may be necessary for their proper relief, at a cost of not exceeding four thousand dollars per annum.

P. L. 1904, p. 405.

Diphtheria antitoxine supplied to indigent patients.

2. For the purposes aforesaid the State Board of Health is hereby authorized to expend, and the State Treasurer to pay out on warrants duly approved by the Comptroller on the order of said board, such sums of money as may be necessary to carry out the provisions of this act, not to exceed seven thousand dollars, for permanent equipment, and six thousand dollars for annual expenditures.

Appropriation.

An Act giving to recorders and police justices of towns jurisdiction in actions to enforce ordinances of boards of health.

Approved March 28, 1904.

P. L. 1904, p. 258.

1. The recorder or police justice of any town shall have jurisdiction over all actions brought to enforce ordinances passed by the board of health of such town, in the same manner and to the same extent as other actions brought to enforce ordinances passed by the town council of such town.

Jurisdiction in enforcing ordinances.

2. The police officers of all towns are authorized and empowered to serve all papers, processes and orders in actions to enforce ordinances passed by the board of health of said town, in the same manner and to the same extent as they are authorized now to serve papers, processes and orders in actions to enforce ordinances of the town council.

Police to serve papers, etc.

3. All fees, costs, fines and sums of money in all actions to enforce ordinances of the board of health shall be paid over to the town authorities, in the same manner and to the same extent as the same are paid over in actions to enforce ordinances of the town council.

Disposition of fees, fines, etc.

4. This act shall be deemed a public act and shall take effect immediately.

A Supplement to an act entitled "An act concerning proceedings to review judgments or other judicial proceedings of any city judge, police court or other inferior court had for or on account of alleged violation of city ordinances of city boards of health," approved March twenty-eighth, one thousand eight hundred and ninety-five.

P. L. 1898, p.
534.

Approved June 14, 1898.

1. Section one of the above entitled act be and the same is hereby amended so that said section shall read as follows:

1. All judgments or other judicial proceedings of any city judge, police court, or other inferior court, had for or on account of any alleged violation of city ordinances or ordinances of city boards of health, whether had with or without a trial by jury, shall be reviewable by writ of certiorari, in accordance with the rules and practice of the supreme court, or on application for that purpose, made by the defendant, within thirty days after such judgment has been rendered, the court of common pleas of the county in which such judgment was rendered may order such judgment and all the proceedings had in the case, to be certified to said court, by the court in which such judgment was had, and upon return being made to said order, said court of common pleas may review said judgment and all the proceedings had in the case, and set the same aside if said court shall find the same to be illegal.

An Act concerning penalties for the violation of ordinances in cities.

P. L. 1904, p.
277.

Penalties for
violations of
ordinances.

Approved March 28, 1904.

1. Whenever any board or body of any city shall have power and authority to pass ordinances on any subject and prescribe a penalty or penalties for the violation thereof, it shall and may be lawful for such board or body, in passing any ordinance, to prescribe a maximum penalty to be enforced, either by fine or imprisonment or both, not exceeding the limit set in the act which authorizes such ordinance; and any police justice before whom a proceeding on account of such violation may be cognizable shall have discretion in imposing such penalty or penalties, but not to exceed the maximum penalty or penalties prescribed in the ordinance.

Discretion
given police
justice as to
penalty
imposed.

2. Whenever ordinances have already been passed by any such board or body fixing a definite penalty for the violation thereof, it shall be lawful for such board or body to pass a general ordinance allowing any police justice before whom a proceeding on account of the violation of any such ordinance already passed may be cognizable, to impose any penalty in its or his discretion not to exceed the amount prescribed in such ordinance or ordinances already passed, which amount shall be the maximum penalty.

BIRTHS, MARRIAGES AND DEATHS.

An Act to secure in this State the certification of marriages, births and deaths, and of the vital facts relating thereto, and to provide for the record thereof.

Approved February 15, 1888.

Gen. Stat., p. 2006.

Certificates of marriage to be transmitted to proper officer.

1. That it shall be the duty of every judge of any court of common pleas, justice of the peace, recorder, police justice, mayor, minister of the gospel, and other person who shall, under the authority of any law of this State, solemnize any marriage therein, and the clerk or keeper of the minutes of any religious society before which any marriage shall be solemnized in this State, to transmit to the officer hereinafter designated, within thirty days after such solemnization, a certificate of each and every marriage solemnized by any such minister, magistrate or other person, or before any such religious society, which certificate shall set forth particularly the name, age, parentage, birthplace, occupation and residence of each of the persons married, the time and place of the marriage, the condition of each of the persons married, whether single or widowed, the name of the minister, magistrate or person by whom, or of the religious society before which the marriage was solemnized, and the names and residences of the witnesses; any minister, magistrate or other person, or clerk or keeper of the minutes of any religious society, who shall neglect or fail to transmit such certificate to the officer hereinafter designated, within the time aforesaid, shall be liable to a penalty of twenty dollars.

Certificate, what set forth.

Penalty.

2. That it shall be the duty of the physician or midwife present at the birth of any child born in this State, and in case there be no physician or midwife present, then of the parents or either of them, to transmit, within thirty days after such birth, to the officer hereinafter designated, a certificate of such birth, which certificate shall set forth particularly, as far as they can be obtained, the day of the month and year of the birth, the township, city or municipality, and the county, in which the birth occurred, the name of each of the parents, the maiden name of the mother, the birthplace, residence and occupation of each of the parents, the sex and color of the child, the name of the child, if it be named, and the name of the attending physician or midwife if any there be; it shall also be the duty of the assessor of every township, and of the clerk or the person acting as registrar of vital statistics in every city, borough, town or other local municipal government, between the first and tenth days of April, in each and every year, to mail to each physician or midwife residing in such township, city, borough, town or other local municipal government, or to supply to every such physician or midwife on application therefor, twelve envelopes of proper size, each with a two-cent postage stamp thereon, to be provided at the expense of the

Certificate of birth to be transmitted to the proper officer.

Certificates, what to set forth.

Duty of assessors and clerks.

Penalty for failure to perform duties.

township, city, borough, town or other local municipal government, for the use of said physicians and midwives in transmitting said certificates of birth to the officer hereinafter designated; any physician, midwife or parent whose duty it may be to transmit such certificate as aforesaid, and who shall neglect or fail to perform such duty within the time above limited, shall be liable to a penalty of twenty dollars; and the assessor of any township who shall ascertain that any physician, midwife or parent has neglected or failed to perform such duty as aforesaid, within the time above limited, shall forthwith make and sign a certificate setting forth the particulars herein above specified, and shall mark the same with the words "special return," but no such certificate of the assessor and no failure of any assessor, clerk or registrar of vital statistics to mail the envelopes aforesaid, shall release any physician or midwife, or any parent, from the duty of certifying such birth in the manner aforesaid nor from the penalty incurred by any neglect or failure to certify such birth.

Physicians to furnish undertaker with certificate of death.

What certificate to set forth.

3. That when any person shall die within this State, it shall be the duty of the physician who shall have attended such person during his or her last sickness to furnish to the undertaker, or any member of the family applying therefor, a certificate of such death, which certificate shall set forth particularly, to the best of such physician's knowledge, the name, age, sex, color, nativity, occupation, last place of residence, the township, city or municipality and the county within which the death occurred and the cause of death; if no physician shall have attended such deceased person during his or her last sickness, or if the physician who shall have attended such deceased person shall be absent or sick, so that no certificate of death can be obtained from him in time for burial, then and in either of such cases it shall be lawful for any physician to whom application may be made, after having viewed and examined the dead body, and being satisfied that the deceased person did not come to his or her death by the contrivance, aiding, procuring or other misconduct of any person or persons, to furnish such certificate as aforesaid; in case the attending physician, or the physician applied to as aforesaid, after having consented to act upon such application and viewed and examined the dead body, shall refuse to furnish such certificate as aforesaid, except upon the ground aforesaid, he shall be liable to a penalty of twenty dollars; and if any physician shall refuse to furnish such certificate as aforesaid, upon the ground aforesaid, the same proceedings shall be had as are provided by law for the investigation of the cause of violent, sudden or casual deaths, and the physician or officer who shall conduct such investigation shall furnish such certificate of death as aforesaid.

Penalty for refusing to furnish certificate.

Certificates of marriages and births to be transmitted to registrars, clerks or assessors.

4. That every certificate of marriage or birth required to be made by the first and second sections of this act shall, in any city, borough, town or other local municipal government, be transmitted to the registrar of vital statistics, if there be such

officer, and if not, then to the clerk of the city, borough, town or other municipal government in which such marriage or birth shall occur; and in any township every such certificate shall be transmitted to the assessor of the township in which such marriage or birth shall occur, or if there be no assessor in office, then to the township clerk.

5. That every certificate of death required to be made by the third section of this act, shall, where the death occurs within any city, borough, town or other local municipal government, be delivered to the registrar of vital statistics of such city, borough, town or other local municipal government, if there be such officer, and if there be no such officer, then to the clerk thereof, and said registrar or clerk shall thereupon issue a permit for the burial of the body of the deceased person described in said certificate of death, and shall forthwith give said permit to the person delivering to him the certificate of death, which permit shall be authority for the burial of such body, but the said certificate of death shall be retained, to be disposed of as hereinafter directed; where the death occurs within any township and the burial is to be made in any place in this State not within the limits of any city, borough, town or other municipal government, every certificate of such death which shall be furnished to the undertaker, or other person acting as undertaker, shall of itself constitute a sufficient authority for such burial; and where the death occurs within any township and the burial is to be made within the limits of any city, borough, town or other local municipal government of this State, every certificate of such death shall be delivered to the assessor of such township, if there be one in office, or if there be no assessor in office, then to the clerk of such township, which assessor or clerk shall thereupon issue a permit for the burial of the body of the deceased person described in such certificate of death, shall give said permit to the person delivering to him the certificate of death, and shall retain the certificate of death, to be disposed of as hereinafter directed; *provided, however,* that when a death shall occur within any city, borough, town or other local municipal government now existing, or which shall hereafter exist, within the limits of any township, then and in such case a permit for burial shall be obtained in the same manner as in other cities, boroughs, towns and local municipal governments; *and provided further,* that when a death shall occur within any township and the burial is to be made within the limits of any city, borough, town or other local municipal government of this State, the certificate of any such death may be delivered, if it be more convenient, by the undertaker or person acting as undertaker, to the registrar of vital statistics, if there be such officer, or if there be no such officer, then to the clerk of the city, borough, town or other local municipal government within which such undertaker or person acting as undertaker may reside, or within which the burial is to be made, but in all such cases it shall be the duty of such

Certificate of death to be delivered to registrars, clerks or assessors.

Registrar or clerk to issue permit.

When certificate to be issued to undertaker.

Certificate authority for burial.

Assessor or clerk to issue permit.

Proviso.

Proviso.

undertaker or person acting as undertaker, to deliver with said certificate of death, in writing, to such registrar or clerk, the name and post-office address of the assessor, if there be such officer, and if there be none, then of the clerk of the township in which the death shall have occurred, and also the sum of two cents to pay for postage, and said registrar or clerk shall immediately issue a permit for burial as in other cases and shall immediately transmit such certificate by mail to the assessor or clerk whose name and post-office address shall have been furnished as aforesaid, and for any neglect or failure so to transmit such certificate, such registrar or clerk shall be liable to a penalty of twenty dollars. (a)

In absence of clerk or registrar, judge of court or justice of peace may issue permit for burial, etc.

Form of permit.

Copy of permit, transmitted to whom.

Proceedings in case bodies are brought into this State for burial.

6. That in case where, on account of the absence of the registrar of vital statistics or the clerk of any city, borough, town or local municipal government, or for any other sufficient reason, it may be impossible to obtain from such registrar or clerk a permit in time for burial, it shall be lawful for any judge of the Court of Common Pleas or any justice of the peace of the county in which the death occurred, on presentation of the certificate of death to him, and being satisfied that such certificate is genuine, and that no permit can be obtained in time for burial from the clerk aforesaid, to issue a special permit for burial in the following form: "It being impossible to obtain a burial permit from the registrar of vital statistics or the clerk of the [stating here the name of the city, borough, town or other local municipal government], on account of [state here the reason], I, a judge of the Court of Common Pleas [or a justice of the peace], of the county of ———, do hereby grant this special permit for the burial of ———, whose death has been duly certified to me," which permit shall be dated and signed by such judge or justice; the said judge or justice shall transcribe a copy of said permit upon the back of the certificate of death, shall give the original permit to the person delivering to him the certificate of death, and shall transmit the certificate, with the transcription thereon indorsed, by mail, in an envelope marked "burial permit," to the State Bureau of Vital Statistics, at Trenton; the judge or justice who shall issue any such permit shall be entitled to charge and receive from the person presenting to him such certificate of death the sum of fifteen cents.

7. That in case any person shall die without this State, and his or her body shall be brought into this State for burial, it shall be the duty of the family undertaker or other person conveying such body into this State, to bring therewith, or send beforehand, a certificate of death made by the physician who attended such deceased person during his or her last sickness, setting forth the particulars specified in the third section of this act, or in lieu thereof, a certificate of death, setting forth said

(a) There is no property right in a dead body. After a body is buried it is in the custody of the law. *Toppin v. Moriarty*, 14 Dick. 115. See, also, *Smith v. Shepherd*, 19 Dick. 401.

particulars, may be obtained from any physician duly authorized to practice medicine within this State, who shall reside within the township, city, borough, town or other local municipal government within which the burial is to be made, and who shall have made proper inquiry as to the facts required to be certified, and satisfied himself as to the same; if the burial of such body shall be made in any township of this State, such certificate as aforesaid shall constitute a sufficient permit for burial; but if the burial shall be made in any city, borough, town or local municipal government of this State, the said certificate shall be delivered to the registrar or clerk thereof, who shall issue a permit for burial, as in cases where deaths shall occur within the city, borough, town or local municipal government of which such registrar or clerk is an officer.

8. That any undertaker or other person who shall be about to remove from this State the body of any deceased person who shall have died within this State, shall, prior to such removal, obtain a certificate of the death of such person, as required by the third section of this act, and such certificate shall be presented to the assessor of the township in which the death shall have occurred, if there be such officer, or if there be none, then to the clerk thereof, or to the registrar of vital statistics of the city, borough, town or other local municipal government, in which the death shall have occurred, or if there be no such officer, then to the clerk thereof, who shall issue to the person presenting such certificate a general or transit permit, according as the case may require; or, if the death shall have occurred in any township, and it shall be more convenient to present said certificate of death to the clerk of some city, borough, town or other municipal government, such course may be adopted, but the person presenting such certificate shall, in such case, also furnish said clerk with the name and post-office address of the assessor, if there be such officer, and if there be none, then of the clerk of the township in which the death shall have occurred, and shall also pay to said clerk the sum of two cents, and said clerk shall thereupon issue a general or transit permit as aforesaid, and shall also forthwith transmit said certificate, by mail, to the assessor or clerk, whose name and post-office address shall have been furnished as aforesaid, and for any neglect or failure so to transmit such certificate, said clerk shall be liable to a penalty of twenty dollars.

9. That it shall be the duty of the keeper of every cemetery within this State, owned by any cemetery company under any law of this State, to keep a record of all interments made in such cemetery, which record shall include the name of the person interred, last place of residence and the name of the undertaker, or person acting as undertaker; said record shall be a public record and at all times open to the inspection of any persons who, under any of the laws of this State, shall have duties imposed upon them relating to the procurement or tabulation of vital statistics.

Proceedings
in case of
removal of
bodies from
this State.

Keepers of
cemeteries to
keep record
of inter-
ments.

Undertakers to transmit burial certificates to assessors.

10. That it shall be the duty of every undertaker in this State, and of every other person acting as undertaker in this State, to transmit by mail or otherwise to the assessor of the township, or if there be no assessor, then to the clerk of the township, within five days after burial, the certificate of death which he may have received and used as a burial permit in the case of any person who shall have died in such township, or of any person who shall have died out of this State and been buried in such township, and if he shall neglect or fail so to do he shall be liable to a penalty of twenty dollars; and any undertaker, or person acting as undertaker, who shall bury within this State the body of any deceased person without having first received a permit for burial, according to the true intent and meaning of this act, and any clerk who shall sign any permit for burial and deliver the same, or knowingly suffer it to be delivered, to any undertaker or other person, without having first received a certificate of death, according to the true intent and meaning of this act, shall be liable to a penalty of fifty dollars.

Penalty for burying bodies without permit.

Penalty for making false certificates.

11. That any minister of the gospel, magistrate, physician, midwife or other person, who shall knowingly make any false certificate of marriage, birth or death, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be liable to a fine not exceeding one hundred dollars or imprisonment in the county jail for a period not exceeding three months, or both, at the discretion of the court.

As amended March 29, 1892.
Gen. Stat., p. 2011.

Assessors, clerks and registrars to transmit certificates to bureau of vital statistics.

12. That it shall be the duty of the assessor and clerk of every township, and of the registrar of vital statistics and the clerk of every city, borough, town, and of the clerk of every county board of health and vital statistics, or other local municipal government in this State, on or before the fifteenth day of each calendar month, to transmit by mail to the State Bureau of Vital Statistics at Trenton, in an envelope marked "vital statistics," all the certificates of marriages, births and deaths received by such officer, and of all "special returns" of births made during the preceding month, which certificates and returns it shall be the duty of every such officer to receive for such transmission; and every such assessor, registrar or clerk, upon receiving a certificate from the medical superintendent of said bureau of the whole number of certificates of marriages, births and deaths returned as aforesaid, shall be entitled to receive from the proper disbursing officer of the township, city, borough, town, county or other local municipal government in which such assessor, registrar or clerk shall be an officer, the sum of ten cents for each marriage, birth and death so returned, the receipt for which shall be attached to the said certificate of the said medical superintendent, and no payment shall be made unless such certificate be produced; and it shall further be the duty of the registrar of vital statistics, or the clerk of every city containing thirty thousand inhabitants or over, provided he has been or shall be so directed by the common council, or other governing body thereof, before transmit-

Fee for each certificate.

Record of births, marriages and deaths to be kept in certain cities.

ting said certificates to the State Bureau of Vital Statistics, to make a complete record of the marriages, births and deaths occurring in such city, which record shall be a transcript of the names and vital facts appearing upon the certificates of marriages, births and deaths delivered to him as hereinbefore directed; the said record shall be so made up that the marriages, the births and the deaths shall appear in separate and distinct classes, in books of such form as may be approved by the local board of health, and for making such record the said registrar or clerk shall be entitled to receive from the disbursing officer of said city the sum of three cents for each certificate thus recorded in addition to his other fees and salary.

13. That it shall be the duty of the medical superintendent of said bureau to cause the certificates of marriages, births and deaths received by said bureau pursuant to the provisions of this act, to be alphabetically indexed, and in connection with said index to cause to be transcribed or otherwise recorded from said certificates such of the vital facts appearing thereon as the State Bureau of Vital Statistics may deem necessary and useful; the index to the certificates of marriages, of births and of deaths, with said record of vital facts, shall be kept separate and distinct from one another, and shall further be so arranged as to present in separate and distinct classes the index and record for each county, and for each city, borough, town and other local municipal government containing five thousand inhabitants or over, which index and record thus prepared and classified shall be preserved as a public record in the office of the State Bureau of Vital Statistics, and the original certificates shall be preserved in the archives of the Bureau of Vital Statistics; any such original certificate, or any copy thereof, certified to be a true copy under the hand of said medical superintendent, shall be received in evidence in any court of this State to prove the facts therein contained.

14. That it shall be the duty of the State Bureau of Vital Statistics to cause to be prepared blank forms of certificates of marriages, births and deaths, and of burial permits, corresponding to the requirements of this act, which forms, together with such sections of this law and such instructions and explanations thereof as the said bureau may deem useful to persons having duties to perform under this act, shall be printed and supplied in the same manner as the blanks and stationery for the use of the several departments and public offices of the State government are printed and supplied, and shall be distributed from time to time, as occasion shall require, by said bureau, amongst the assessors of the townships and the registrars and clerks of the cities, boroughs, towns and other local municipal governments of this State; and it shall be the duty of every such assessor, registrar and clerk to make and keep a complete list, as far as possible, of all ministers, magistrates, physicians, midwives, undertakers and other persons required to perform any duties under this act, and on or about the first day of May of each year to send to each such person a printed copy of such

Certificates of marriages, births and deaths to be alphabetically arranged by superintendent of bureau of vital statistics.

State Bureau of Vital Statistics to prepare blank forms of certificates, etc.

Duties of assessors, registrars and clerks.

sections of this act and of such instructions and explanations as may be prepared as aforesaid, and also to furnish to each such person, on application, free of charge, a reasonable number of said blank forms as such person may require, and all certificates of marriages, births or deaths shall be made on the printed forms furnished by said bureau, or if they be written shall conform in all respects to said printed forms.

Penalties.
how and by
whom
recovered.
As amended
February 28,
1900.
P. L. 1900, p.
15.

15. Any penalty incurred under any of the provisions of this act which shall relate to any particular marriage, birth, death or burial, may be recovered with costs in a summary proceeding by and in the name of the Board of Health of the State of New Jersey; any penalty incurred under any of the provisions of this act which shall relate to any particular marriage, birth or death, may also be recovered with costs in a summary proceeding by and in the name of the local board of health of the township, city, borough, town or other local municipal government within whose limits such particular marriage, birth or death shall have occurred; and any penalty incurred which shall relate to any particular burial, if the death occur in this State, may also be recovered with costs in a summary proceeding by and in the name of the local board of health of the township, city, borough, town or other local municipal government within whose limits the death shall have occurred; but if the death occur out of this State, and the burial be made in this State, then such penalty may also be recovered with costs in a summary proceeding by and in the name of the local board of health of the township, city, borough, town or other local municipal government within whose limits such burial may have been made; in every such summary proceeding a complaint shall be made in writing against the person incurring the penalty, setting forth facts sufficient to present a prima facie case against the defendant, which complaint may be on information and belief and in the name of the State or local board instituting the suit, and may be filed by any member, officer, health inspector or agent of such State or local board, in the office of the clerk of any district court, or with any justice of the peace, police justice or recorder in the township, city, borough, town or municipality whose local board of health is authorized to recover such penalty; and it shall thereupon be the duty of the judge of the district court with which, or of the justice of the peace, police justice or recorder with whom such complaint shall be filed, on being satisfied that a prima facie case is therein set forth, to make an order for the issue of process in the nature of a summons when the complaint is on information and belief, and in other cases either in the nature of a summons or warrant, and to issue such summons or warrant against the defendant; when process is in the nature of a warrant it shall be returnable forthwith, and when in the nature of a summons it shall be returnable in not less than five nor more than fifteen days; on the return of the process, or, in case of adjournment, at the time to which the trial shall have

Process
issued.

Return of
process.

been adjourned, the court or magistrate shall proceed to hear the testimony of witnesses and the proofs in the case, and to determine and give judgment in the matter without the filing of any pleadings, and such judgment shall be in the following or similar form: "State of New Jersey, county of ———, ss.: Be it remembered that on this ——— day of ———, in the year of our Lord nineteen hundred ———, at ———, in said county, C. D., defendant, was, by the district court of the city of T. (or by me, E. F., justice of the peace, police justice or recorder of the city of ———, or as the case may be), convicted of violating the ——— section of an act of the Legislature of the State of New Jersey entitled 'An act to secure in this State the certification of marriages, births and deaths, and of the vital facts relating thereto, and to provide for the record thereof,' approved February fifteenth, eighteen hundred and eighty-eight, in a summary proceeding at the suit of the Board of Health of the State of New Jersey (or, of the local board of health of the township of A., or as the case may be); and further that the witnesses in said proceeding who testified for the plaintiff were (name them), and the witnesses who testified for the defendant were (name them); wherefore, the said court (or, justice of the peace, police justice or recorder, as the case may be) doth hereby give judgment that the plaintiff recover of the defendant ——— dollars, penalty, and ——— dollars, costs of this proceeding, and that execution do issue against the goods and chattels of said defendant for the amount of said penalty and costs, and for want of sufficient goods and chattels whereon to levy and make the same, to take the body of the defendant and convey him to the common jail of the county and deliver him to the keeper thereof, to be there confined until the said penalty and costs be fully paid, or until he be thence delivered by due course of law;" said judgment shall be signed by the judge of the district court, justice of the peace, police justice or recorder giving the same; execution shall thereupon be granted by the court, justice of the peace, police justice or recorder giving the judgment, commanding the officer to whom the execution is delivered to levy and make the amount of the penalty and costs imposed by the judgment out of the goods and chattels of the defendant, and for want of sufficient goods and chattels whereon to levy and make the same, to take the body of the defendant and convey him to the common jail of the county and deliver him to the keeper thereof, to be there confined until the said penalty and costs be fully paid, or until he be thence delivered by due course of law; *provided, however*, that no execution shall issue against the body of any female; the officers to serve and execute any process or execution issued as aforesaid shall be the constables of the county, which service and execution shall in all cases be made in the same manner and under the same liabilities that other processes and executions issued out of the district courts of this State are served and executed under and by virtue of the provisions of the act entitled "An act concern-

Form of
judgment.

Recovery of
penalty and
costs.

Proviso.
Constable to
execute
processes.

Costs.

Hearing
adjourned.

Repealer.

ing district courts," approved June fourteenth, in the year eighteen hundred and ninety-eight; the cost taxable and recoverable in any case prosecuted as aforesaid shall be the costs allowed by the act last above mentioned in cases prosecuted in district courts; the penalty recovered in any such action shall be paid to the plaintiff therein, and applied by such plaintiff to any purpose for which it may be legally authorized to expend money; the judge of the district court, justice of the peace, police justice or recorder before whom any case is prosecuted under the provisions of this section may adjourn the hearing thereof from time to time, not exceeding thirty days from the return day of the summons or warrant, and in any case where a warrant shall have been issued may require the defendant to enter into a bond with sufficient surety to the plaintiff in the penal sum of one hundred dollars, conditioned to appear at the time and place of hearing or trial, and in default of such bond may commit the defendant to the common jail of the county, to be there detained until the hearing or trial of the complaint; and if any defendant shall fail to appear at the time and place to which the hearing or trial shall be so adjourned the bond shall be delivered to the plaintiff, who may sue thereon and apply the moneys recovered in such suit to any purpose for which it may be legally authorized to expend money.

16. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

Supplement.

P. L. 1901, p.
36.Certified
copy as
evidence.

Approved February 27, 1901.

1. The records of marriages, births and deaths, heretofore, and at any time prior to, the passage of the act to which this is a supplement, made, and kept by the Secretary of State of this State, or any copy thereof, or of any individual record thereof, certified to be a true copy under the hand of the medical superintendent of the State Bureau of Vital Statistics, shall be received in evidence in any court of this State to prove the facts therein contained.

An Act concerning marriages (Revision of 1902).

I. WHO MAY NOT MARRY.

P. L. 1902, p.
490.Degrees
within which
marriage
prohibited.

Approved April 3, 1902.

1. A man having a wife alive shall not marry another woman; a man shall not marry any of his ancestors or descendants, or his sister, or the daughter of his brother or sister, or the sister of his father or mother, whether such collateral kindred be of the whole or half blood; a woman having a husband alive shall not marry another man; a woman shall not marry any of her ancestors or descendants, or her brother,

or the son of her brother or sister, or the brother of her father or mother, whether such collateral kindred be of the whole or half blood; a marriage or attempted marriage in violation of any of the foregoing provisions shall be absolutely void.

II. WHO MAY SOLEMNIZE A MARRIAGE.

2. The Chief Justice and each Justice of the Supreme Court, the Chancellor and each Vice Chancellor, and each Judge of the Court of Common Pleas, and justice of the peace, recorder and police justice, and mayor of a city of this State, and every stated and ordained minister of the gospel, is hereby authorized to solemnize marriages between such persons as may lawfully enter into the matrimonial relation, and every religious society in this State may join together in marriage such persons as are of the said society, or when one of such persons is of such society, according to the rules and customs of the society to which they or either of them belong.

Who may
solemnize
marriages.

III. MARRIAGE OF MINORS.

3. No person having, or pretending to have, authority to join persons together in the holy bonds of matrimony, shall marry any male under the age of twenty-one years, or female under the age of eighteen years, unless the parent or parents, guardian or guardians, or person or persons under whose care and government such minor or minors shall be, be present and give consent thereto, or until the minor applying to be married, whether male or female, shall have produced a certificate of consent, in writing, under the hand of the parent or parents, guardian or guardians, or if such minor so applying to be married have no parent or guardian, then under the hand of the person or persons under whose care and government he or she may at that time be; and if any certificate be produced as aforesaid, the same shall be proved to be genuine by the oath or affirmation of at least one person, of full age and discretion, who was present at the signing of the same, and affixed his or her name as a witness thereto, which oath or affirmation may be administered by any person authorized to solemnize marriages as aforesaid, and shall be entered upon the back of said certificate of consent.

Regulations
concerning
marriage of
minors.

4. If any person having or pretending to have authority to join persons together in the holy bonds of matrimony, shall marry any minor, without such consent had and obtained, according to the direction of this act, and contrary to the true intent and meaning thereof, every such person shall, for every such offense, forfeit three hundred dollars, to be recovered in an action on contract, in any court of record in this State, by the parent, guardian or person having charge of such minor,

Penalty for
marrying
minors with-
out consent.

as shall be so joined in marriage as aforesaid, the one-half of said forfeiture to be paid to the Treasurer of the State, for the use of the State, and the other half to be for the use of the plaintiff.

Records and
returns of
marriages of
minors.

5. Every person having, or pretending to have, authority to join persons in marriage, who shall marry any minor by virtue of a certificate of consent had and proved as above directed, shall register the same, or cause it to be registered, in a book by him to be kept for the purpose of registering marriages, and shall attach the original certificate of consent to the certificate of marriage by him required to be made, and shall transmit the same, with said certificate of marriage, to the officer to whom, by law, he is required to transmit the certificate of marriage, to the end that the same may be forwarded to and filed with the State Bureau of Vital Statistics.

IV. MARRIAGE LICENSES.

If both
parties non-
resident,
license
necessary.

6. No marriage shall hereafter take place or be solemnized in this State, where both the parties proposing marriage are non-residents of the State, until a license therefor shall have been obtained from the clerk of the county where the marriage is to be performed, at least five days prior to the marriage; and no such license shall be issued unless at least one of the parties to such proposed marriage shall be first identified before such clerk, and it shall be made to appear to such clerk that no legal impediment to the marriage exists.

Form of
license.

7. The said license shall be in form as follows:

State of New Jersey,

County of ———

To any person authorized by law to solemnize marriages, greeting:

It appearing before me that no legal impediment thereto exists, you are hereby authorized, within the county of ———, to join together in the holy state of matrimony, in accordance with the laws of the State of New Jersey, A——— B———, of (giving place of residence), and C——— D———, of (giving place of residence).

In witness whereof I have hereto attached my name and official seal, this ——— day of ———, one thousand ———.

(Seal.)

Clerk of the county of ———.

The said license shall have appended thereto two certificates, which said certificates shall be numbered to correspond with the license above set forth, one of said certificates to be marked "original," and the other of them marked "duplicate;" said certificate shall be in form as follows:

I, ——— (minister of the gospel, or as the case may be), do hereby certify that A——— B———, of ———, and C——— D———, of ———, were by me united in marriage in accordance with the license for that purpose issued by ———, clerk of

the county of ———, in the State of New Jersey, on the ——— day of ———, one thousand ———, said license and certificate being numbered ———.

_____,
Minister, &c. (or as the case may be).

8. It shall be the duty of the minister or other person performing such marriage to deliver to the parties the certificate marked "original," and to return, within thirty days, the certificate marked "duplicate" to the office of the clerk who shall have issued the license to which said certificates were originally attached, under a penalty of one hundred dollars, to be sued for and collected as other penalties are by law collected, by the clerk issuing such license, for the use of the county of which he is the clerk.

Return duplicate to clerk.

9. In all cases in which the parties as aforesaid to any proposed marriage shall intend solemnizing such marriage in accordance with the customs of any religious society as now allowed by law, the license therefor shall be in form as follows:

Marriage by forms of a religious society; license for.

State of New Jersey,

County of ———

To A—— B—— and C—— D——:

Application having been made to me by the above named A—— B——, of (giving place of residence), and C—— D——, of (giving place of residence), for a license authorizing the solemnization of marriage between them in accordance with the customs of the ———, and without the intervention of any person authorized to solemnize marriages, and due proof being by me taken that no legal impediment to such proposed marriage exists, the said A—— B—— and the said C—— D—— are hereby authorized to become joined in marriage in accordance with the customs of such ——— and in the manner required by law.

(Seal.)

_____,
Clerk of the county of ———.

The said license shall have appended thereto two certificates, which said certificates shall be numbered to correspond with the license above set forth, one of said certificates to be marked "original," and the other of them marked "duplicate;" said certificate shall be in form as follows:

We hereby certify that on the ——— day of ———, anno domini one thousand ———, we were united in marriage at ———, in the county of ———, State of New Jersey, in accordance with the customs of the ——— and in accordance with the laws of this State, having first obtained for that purpose a license from the clerk of the county ———, said license and this certificate being numbered ———.

A—— B——.

C—— D——.

We, the undersigned, do say that we were present at the marriage above certified to between the said A—— B—— and C—— D——.

Duplicate
returned to
clerk of
county.

The said certificate shall be duly signed by the parties to said marriage, and duly attested by at least two witnesses who were present at such marriage; the certificate marked "original" shall be retained by the parties, and the one marked "duplicate" shall be returned by the clerk or keeper of the minutes of such religious society, within thirty days, to the office of the clerk who shall have issued the license to which such certificates were originally attached, under a penalty of one hundred dollars, to be used for and collected as other penalties are by law collected, by the clerk issuing such license, for the use of the county of which he is the clerk.

Issuance of
license.

10. Before any county clerk shall issue any marriage license, as provided in the sixth section of this act, he shall demand of the party applying therefor, under oath or affirmation, the facts respecting the legality of the same, and he shall issue the said license only if it shall be made to appear before him that no legal impediment to such proposed marriage exists; for such license he shall be entitled to receive the sum of fifty cents.

Forms and
statistics.

11. It shall be the duty of the Attorney-General to cause to be issued to the State Bureau of Vital Statistics the form and substance of the several inquiries to be made of any applicant as aforesaid, in order that the several county clerks shall be enabled to obtain the information herein required and ascertain whether any legal impediment to any proposed marriage exists; and the Bureau of Vital Statistics shall cause the same, which shall include inquiries concerning the name, age, parentage, birthplace, occupation and residence of each of the persons to be married, and the condition of each of them, whether single, widowed or divorced, to be printed and supplied to the several county clerks in the same manner that other blanks are now furnished.

County clerk
to transmit
duplicates.

12. It shall be the duty of every county clerk to transmit to the State Bureau of Vital Statistics, at Trenton, between the first and tenth days of each and every month, all "duplicate" certificates of marriage filed with him during the preceding month, together with a copy of the marriage license, and all duplicate certificates received by said bureau shall be alphabetically indexed and filed and preserved in the archives of said bureau in the same manner that marriage certificates have heretofore, by law, been required to be indexed, filed and preserved; and every clerk who shall neglect or refuse to comply with the provisions of this section shall for every such offense forfeit and pay the sum of one hundred dollars, to be sued for and recovered by the prosecutor of the pleas for the use of the county in and for which such clerk acts as an officer.

Issuance of
license to
minors.

13. If any such male applicant for license to marry shall be a minor under the age of twenty-one years, or any such female applicant under the age of eighteen years, such license shall not be issued, unless the parents or guardian of the said minor, if there be any, shall first certify, under their hands and seals,

in the presence of two reputable witnesses, their consent thereto, and no license shall be issued where the parties to such proposed marriage shall, at the time of applying for such license be under the influence of liquors, opiates or other stupefying drugs; any consent given in accordance with this section shall be delivered to the clerk issuing the license and be transmitted to the State Bureau of Vital Statistics, with the papers required to be transmitted to said bureau by the next preceding section.

14. If any county clerk shall violate any of the provisions of this act, or shall fail to comply therewith, he shall pay a fine of one hundred dollars for each and every offense, to be recovered by the county of which he is clerk; if any person applying for license under this act shall make willful and false answer to any of the inquiries required to be asked by any county clerk, he or she shall be deemed guilty of perjury, and shall be subject to the penalties imposed therefor by the laws of this State; if any person shall perform any marriage ceremony between parties, both of whom, at the time of such marriage, are non-residents of this State, without the presentation to him of a license therefor, obtained in due time, in accordance with the provisions of this act, he shall be guilty of a misdemeanor, and shall, upon conviction, be sentenced to pay a fine not exceeding five hundred dollars.

Penalty for violation.

15. Every duplicate certificate of marriage and copy of marriage license transmitted to the State Bureau of Vital Statistics of this State under the authority of this act, and any copy thereof certified to be a true copy under the hand of the medical superintendent of said bureau, shall be received in evidence in any court of this State to prove the facts therein contained; the records herein provided shall be public records and open to the inspection of the public at all reasonable hours.

Duplicates in evidence.

16. Nothing in this act contained shall be deemed or taken to render any marriage, otherwise lawful, invalid by reason of the failure to take out a license as is herein provided.

Intention of act.

17. Any person having authority to join persons together in the holy bonds of matrimony is empowered to administer to any male or female applying to be married, or both, as the case may require, an oath or affirmation as to the residence and age of such party or parties, which oath or affirmation shall be entered upon the back of the certificate of marriage required by law to be made by the person solemnizing such marriage, and shall be his justification should the parties so married, or either of them, deceive him as to his or her place of residence or age.

Right to administer oath.

PUBLIC WATER-SUPPLIES.

An Act to secure the purity of the public supplies of potable waters in this State.

P. L. 1899, p. 73.

Prohibiting the pollution of water-supply for domestic purposes.

Approved March 17, 1899.

1. No sewage, drainage, domestic or factory refuse, excremental or other polluting matter of any kind whatsoever which, either by itself or in connection with other matter, will corrupt or impair, or tend to corrupt or impair, the quality of the water of any river, brook, stream or any tributary or branch thereof, or of any lake, pond, well, spring or other reservoir from which is taken, or may be taken, any public supply of water for domestic use in any city, town, borough, township or other municipality of this State, or which will render, or tend to render, such water injurious to health, shall be placed in, or discharged into, the waters, or placed or deposited upon the ice, of any such river, brook, stream or any tributary or branch thereof, or of any lake, pond, well, spring or other reservoir above the point from which any city, town, borough, township or other municipality shall or may obtain its supply of water for domestic use, nor shall any such sewage, drainage, domestic or factory refuse, excremental or other polluting matter be placed or suffered to remain upon the banks of any such river, brook, stream or of any tributary or branch thereof, or of any lake, pond, well, spring or other reservoir above the point from which any city, town, borough, township or other municipality shall or may obtain its supply of water for domestic use as aforesaid; and any person or persons, or private or public corporation, which shall offend against any of the provisions of this section shall be liable to a penalty of one hundred dollars for each offense; and each week's continuance, after notice by the State or local board of health to abate or remove the same, shall constitute a separate offense; *provided, however*, that this section shall not be held to apply to any city, town, borough, township or other municipality of this State which, at the date of the passage of this act, has a public sewer or system of sewers, drain or system of drains, legally constructed under municipal or township authority, discharging its drainage or sewage into any such river, brook, stream, lake, pond, well, spring or other reservoir; *and provided further*, that nothing in this section contained shall be construed to repeal, modify or otherwise affect any law or statute now conferring upon any local board of health the power or authority to institute any proceedings in any court of this State for the recovery of any penalty for, or obtaining any injunction against, the pollution of any of the waters of this State.

Proviso.

Proviso.

For decisions on this section, see *State Board of Health v. Diamond Mills Paper Co.*, 18 Dick. 111; affirmed, 19 Dick. 793; *State v. Vineland* and *State v. Ihnken*, decided in Court of Appeals, June Term, 1907.

2. Any penalty incurred under any of the provisions of the first section of this act may be recovered, with costs, in a summary proceeding, either in the name of the board of health of the State of New Jersey, or in the name of the local board of health of the township, city, borough, town or other local municipal government within whose jurisdiction the penalty may have been incurred; it shall be the duty of any health inspector, or member of any local board of health, who shall know or be informed of any violation of any of the provisions of the first section of this act whereby any penalty may have been incurred, to make, and any other person having such knowledge may make, under oath or affirmation, a complaint against the person or persons or private or public corporation incurring such penalty, setting forth the facts of such violation, which complaint shall be filed in the office of the clerk of the District Court, or with any justice of the peace of the county within which the offense may have been committed, or with any police justice or recorder of the township, city or other municipality within which any local board bringing suit shall have jurisdiction; and the District Court, justice of the peace, police justice or recorder with whom any complaint shall be filed as aforesaid, setting forth facts sufficient to show that the penalty prescribed by the first section of this act has been incurred, is hereby authorized and required to issue process either in the nature of a summons or warrant, which process, when in the nature of a warrant, shall be returnable forthwith, and when in the nature of a summons shall be returnable in not less than five nor more than fifteen days; on the return of such process, or at any time to which the trial shall have been adjourned, the said court, justice of the peace, police justice or recorder shall proceed to hear the testimony of witnesses and the proofs in the case, and to determine and give judgment in the matter without the filing of any pleadings, and, if judgment shall be given in favor of the plaintiff, execution shall forthwith issue against the goods and chattels of the defendant for the amount of the penalty, with costs; and all judgments so rendered shall have the same force and effect as other judgments in civil actions before civil courts and officers, and may be docketed in like manner in the office of the clerk of the Court of Common Pleas; the officers to serve and execute any process or execution issued as aforesaid shall be the constables of the counties, which service and execution, in the case of any execution issued out of the District Court, shall be made in the same manner and under the same liabilities as other executions issued out of said court are served and executed; the officers to serve and execute any process or execution issued by a justice of the peace, police justice or recorder shall be the constables of the county, which service and execution shall be made in the same manner and under the same liabilities as

Enforce-
ment of pen-
alty incurred.

prescribed in cases of the service and execution of processes and executions by the act entitled "An act constituting courts for the trial of small causes," and the supplements thereto; all moneys recovered in any such proceeding shall be paid to the plaintiff therein and applied by such plaintiff to any purpose for which it may be legally authorized to expend money.

State Board of Health to have general supervision as regards purity of water-supply.

3. The State Board of Health shall have the general supervision, with reference to their purity, of all rivers, brooks, streams, lakes, ponds, wells, springs or other reservoirs in this State, the waters of which are, or may be used as, the source or sources of public water-supplies for domestic use, together with the waters feeding the same, and shall have the authority, from time to time, as they deem necessary or proper, to examine the same and to inquire what, if any, pollutions exist, and their causes; and the said State Board of Health, in carrying out the provisions of this section may, from time to time, as they deem it necessary or proper, address inquiries in printed or written form to any local board of health, municipal or township authority, corporation, or person or persons, which inquiries it shall be the duty of the persons or parties addressed to answer within such time as the said State Board of Health may in such inquiries prescribe.

Violation prohibited by injunction.

4. If any person or persons, corporation or corporations, city, town, borough, township or other municipality of this State, or any municipal or township authority, shall violate any of the provisions of the first section of this act, it shall be lawful for the said State Board of Health, instead of proceeding in a summary way to recover the penalty prescribed in said section, to file a bill in the Court of Chancery, in the name of the State, on the relation of such board, for an injunction to prohibit the further violation of the said section, and every such action shall proceed in the Court of Chancery according to the rules and practice of bills filed in the name of the Attorney-General on the relation of individuals, and cases of emergency shall have precedence over other litigation pending at the time in the Court of Chancery, and may be heard on final hearing within such time and on such notice as the Chancellor shall direct.

Repealer.

5. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

An Act to enable cities to supply the inhabitants thereof with pure and wholesome water.

Gen. Stat., p. 650, § 916.
Penalty for injury to property or works.

Approved April 21, 1876.

15. That if any person or persons shall maliciously or willfully divert the water or any portions thereof from the said works, or shall pollute, corrupt or render impure the water in any reservoir, aqueduct, conduit or raceway erected, built or

laid down under the provisions of this act, or shall destroy or injure any engine, machine, reservoir pipe, fire-plug, hydrant or structure whatsoever, or other property used or required for procuring or distributing the water, whereby the same may be obstructed or stopped, or shall willfully or maliciously draw off or waste the water from any fire-plug or hydrant, such person or persons, and their aiders and abettors, shall forfeit to the said city, to be recovered in the name of the treasurer of said city, in an action of trespass, in any court of this State having cognizance of the same, triple the amount of damages which shall appear on trial to have been sustained, and all such acts are hereby declared to be misdemeanors, and the parties found guilty thereof may be further punished by fine not exceeding five hundred dollars, or by imprisonment at hard labor not exceeding one year, or both, at the discretion of the court.

An Act to enable towns and townships in this State to construct water-works for the extinguishment of fires and supplying the inhabitants thereof with pure and wholesome water.

Approved March 9, 1893.

Gen. Stat., p.
2215, § 419.
Penalty for
polluting
water in any
reservoir.

13. That if any person or persons shall willfully pollute or adulterate the waters in any reservoir erected under the provisions of this act, any person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding five hundred dollars, or by imprisonment at hard labor not exceeding three years, or both, at the discretion of the court before whom such conviction shall be had.

FOOD AND DRUGS.

An Act to secure the purity of foods, beverages, confectionery, condiments, drugs and medicines, and to prevent deception in the distribution and sales thereof.

Approved March 21, 1901.

As amended
April 12,
1905.
P. L. 1905, p.
245.
"Food" and
"drug"
defined.

1. The term "food" as used in this act shall include every article used for food or drink by man, and every ingredient in such article, and all confectionery and condiments; and the term "drug" as used in this act shall include every article of medicine for internal or external use, and every ingredient in such article.

2. The following drugs shall be deemed to be impure within the meaning of this act: (1) Any drug which, being known under or by a name recognized in the last revised United States pharmacopœia, possesses a strength, quality or degree

As amended
March 29,
1904.
P. L. 1904, p.
308.
Impure drugs
defined.

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| | of purity inferior to or different from that laid down in such pharmacopœia; (2) any drug which, not being known under or by a name recognized in the United States pharmacopœia, but which is found in some other pharmacopœia, or in some other standard work on materia medica, possesses a strength, quality or degree of purity inferior to or different from that laid down in such other pharmacopœia or standard work, and (3) any drug whose strength, quality or degree of purity falls below the professed standard under which it is sold. |
| As amended April 12, 1905. P. L. 1905, p. 245. Impure drugs poisonous. Substitutions. | 3. The following foods shall be deemed to be impure within the meaning of this act: (1) Any food which is rendered poisonous or injurious to health, or whose quality, strength or degree of purity is injuriously reduced, lowered or affected by adding thereto or mixing therewith any ^a other substance or substances; (2) any food for any of whose constituents there have been substituted any substance or substances inferior to or cheaper than the constituents naturally or customarily composing such food or any part thereof; (3) any food from which has been wholly or partially abstracted any valuable or necessary constituent; (4) any food which consists wholly or in part of diseased, decomposed, putrid, infected, tainted or rotten animal or vegetable substance, whether manufactured or not, and (5) in the case of milk, if it contains more than eighty-eight per centum of watery fluids or less than twelve per centum of milk solids, or if any water, drug, chemical, preservative or other substance be added thereto or mixed therewith, and (6) in the case of cream, if it contain less than sixteen per centum of butter fat, or if any package containing cream having less than sixteen per centum of butter fat is not plainly and legibly so marked, or if any water, drug, chemical, preservative or other substance be added thereto or mixed therewith; no person shall kill or aid in killing for human food, any calf less than three weeks old; or sell or offer for sale, or have in possession with intent to sell, for human food, any such calf or any of the meat thereof. |
| Lessened in value. Diseased or tainted. Milk. Cream. Bob veal. | |
| Must not sell or distribute impure food or drugs. | 4. No person shall distribute or sell, or have in his possession with intent to distribute or sell, any article of food or drug which, under any of the provisions of this act, is or shall be deemed to be impure.(a) |
| Imitation sold as such. | 5. No person shall distribute or sell, or offer to distribute or sell, any article of food or any drug which is an imitation of some other article of food or of some other drug under or by the name of the article of food or drug imitated, but the same shall be distributed and sold, or offered for distribution or sale, only by the true name of the imitation. |

(a) To state the successive gradations of statutory offenses conjunctively, when they are not repugnant, is allowable. *State v. Bartholomew*, 40 Vr. 169; *State v. Price*, 6 Halst. 203.

The complaint or state of demand, as the case may be, must show under what statute the penalty is claimed. *Crawford v. Railroad Company*, 4 Dutch. 479; *Bryant v. Gleason*, 43 Vr. 431

6. No person shall distribute or sell, or offer for distribution or sale, or have in his possession with intent to distribute or sell, any article of food which shall have been colored, coated, polished, powdered or treated in such manner as to conceal any element of injury or damage therein or any inferiority of quality thereof.
7. No person shall keep cows for the production of milk in a crowded or unhealthy place or condition, or feed any cow kept for the production of milk on swill, or any substance in a state of putrefaction or rottenness, or on any substance of an unwholesome nature, or on any food or substance that may produce diseased or unwholesome milk; and no person shall distribute or sell, or offer to distribute or sell, or have in his possession with intent to distribute or sell, any milk which is the produce of cows so kept or fed.
8. No person having the possession or care of any milk shall permit it to be exposed to, or contaminated by, the emanations, discharges or exhalations from any person or persons sick with any contagious disease; and no person shall distribute or sell, or offer to distribute or sell, or have in his possession with intent to distribute or sell, any milk which has been so exposed or contaminated.
9. No person shall sell, or offer or expose for sale, or have in his possession for the purpose of sale, any milk from which the cream or any part thereof has been removed, unless every can, vessel or package containing such milk shall have a metal label or tag of metal distinctly, durably and permanently soldered in a conspicuous place upon the outside and not more than six inches from the top thereof, with the words "skimmed milk" stamped, indented or engraved on the label or tag in letters not less than two inches in height, and the several lines of which shall be not less than three-eighths of an inch in width; *provided, however*, that every glass bottle, in lieu of such label or tag, may have blown in it the words "skimmed milk" in letters which shall not be less than one inch in height, and the several lines of which shall be not less than one-eighth of an inch in width; such milk shall only be sold or shipped in or retailed out of a can, bottle, vessel or package so marked. (a)
10. No person shall sell, supply or bring to be manufactured to any person or party operating any cheese or butter manufactory in this State any milk which, under any of the provisions of this act, is or shall be deemed to be impure, or from which the cream or any part thereof has been removed or the sale of which by any of the provisions of this act is prohibited.
11. The State Board of Health shall have the power from time to time to adopt, promulgate and publish, by circular or

Colorings,
etc., to hide
defects.

Proper care
and feed for
cows.

Contaminated
milk.

Skimmed
milk.

Proviso.

Butter and
cheese made
from pure
milk.

Powers of
State Board
of Health.

(a) In a proceeding for a penalty for vending adulterated milk, or milk below the standard, there is no necessity of negating this skimmed milk section. *Vandegrift v. Mcihle*, 37 Vr. 93.

otherwise, such general rules and regulations for the government of the analysts, chemists, chief inspector, and such other inspectors and employes appointed by the said board as they may deem proper; they shall also have the power to give to any analysts, chemists or chief inspector, or other inspector or employe appointed by the board, such orders concerning any performance of duty as they from time to time may deem proper; they shall also have the power from time to time to appoint such analysts, chemists, chief inspector and other inspectors and employes as they may deem proper, who shall hold their respective positions during the pleasure of said board and perform such general or special services as said board may by their general rules and regulations or by their special orders require, and to fix and allow to said analysts, chemists, chief inspector and other inspectors and employes, respectively, such salaries, fees or compensation as the said board shall deem to be reasonable, which salaries, fees and compensation shall be paid out of the appropriations from time to time made by the Legislature for carrying out the provisions of this act; the said board shall have the power, and it shall be their duty, through said analysts, chemists, chief inspector and other inspectors and employes and in such other ways as the said board may deem practicable, to make inquiries and investigations concerning alleged or probable violations of any of the provisions of this act, to cause any and all persons guilty of any violation thereof to be prosecuted under the provisions of this act, and, generally, to adopt, carry out and enforce such rules and regulations as shall promote the purposes of this act. (a)

As amended
May 3,
1906.

P. L. 1906, p.
411.

Samples
furnished
inspector.

12. Every person who shall distribute or sell, or offer for distribution or sale, or have in his possession with intent to distribute or sell, any article of food or drug, shall, on the request therefor and the tender of the value thereof by any chief or other inspector appointed under the authority of this act, deliver to such chief or other inspector so much of any such article of food or drug as said chief or other inspector may request; if such request shall not be immediately granted said chief or other inspector shall thereupon have the power to demand and take so much of any such article of food or drug as such chief or other inspector may think proper, he, at the time of said demand and taking, tendering to the person in charge of such article of food or drug what he may deem to be the reasonable value thereof; said chief or other inspector shall, at the time of the delivery to him of such article of food or drug, or of his demanding and taking the same, divide the sample so delivered or demanded and taken, in the presence of a witness, into two or more parts, and shall duly

(a) If a chemist or other officer testifies that he is such officer, and was duly appointed and acted in a given case, that is sufficient *prima facie* evidence of his official character. *Vandegrift v. Meikle*, 37 Vr. 92.

seal two of said parts each in a suitable can, vessel or package, and, at the time of taking such sample, shall tender and if accepted shall deliver one part to the person of whom the request or demand was made, with a statement in writing, signed by said chief or other inspector, that such sample is taken for the purpose of analysis; and in any prosecution of any person for the violation of any provision of this act no proof of any analysis thereof shall be given in evidence by the prosecutor unless a part of the sample shall have been sealed up and tendered, with such writing as aforesaid, to the person on whom the request or demand was made; *provided, however,* that in any prosecution for the sale of any food or drug in violation of this act, proof of the analysis of the article so sold may be given in evidence on the part of the prosecutor, notwithstanding the fact that the purchase of such article may have been made by some person other than the chief or other inspector appointed under the authority of this act, if such article so sold in violation of this act shall immediately after such sale be delivered by the person so purchasing said article to the chief or any other inspector appointed under the authority of this act, and said chief or other inspector shall, upon such delivery to him, in the presence of a witness, which witness may be the person who made the said purchase, divide the said article into two or more parts and shall duly seal two of said parts, each in a suitable can, vessel or package and shall tender, and if accepted shall deliver to the person who sold the said article, one part of such sample with a statement in writing, signed by said chief or other inspector, that such sample is taken for the purpose of analysis; (a) the chief and every other inspector appointed under the authority of this act, whenever he has reason to believe that any of the provisions of this act concerning the sale or distribution of milk or cream, or the offering or exposing of milk or cream for sale, or the having of milk or cream in possession for the purpose of sale, is being violated, shall have power to open any can, vessel or package containing such suspected milk or cream, whether the can, vessel or package be sealed or locked or not, and whether it be in transit or not; and if upon inspection, he shall believe that such milk or cream is being distributed or sold, or had in possession with intent to distribute or sell, or offered or exposed for sale, contrary to any of the provisions of this act, he may, in the presence of one or more witnesses, take a sample thereof and seal it in a can, vessel or package, and send the sample thus enclosed and sealed for analysis to any chemist appointed under the authority of this act; he may also, in any such case, condemn such milk or cream and pour it upon the ground.

(a) A slight variance between the allegation and the proof, as to the time of the offense, is immaterial. *Hershoff v. Beverly*, 16 Vr. 288; *Greeley v. Passaic*, 13 Vr. 87, 91.

As amended
June 13,
1906.

P. L. 1906, p.
686.

Penalty for
violation.

13. The penalties to be imposed under this act shall be as follows:

I. Every person who shall obstruct or in anywise interfere with any analyst, chemist, chief inspector or other inspector or employe of the State Board of Health in the performance of any duty under this act shall be liable to a penalty of one hundred dollars.

II. Every person who shall violate any of the provisions of this act, except as stated in subdivision one hereof, and except as hereinafter provided, shall be liable to a penalty of fifty dollars.

III. Any person who shall violate section four of this act, by distributing or selling, or by having in his possession with intent to distribute or sell, any milk which is or shall be impure under the provisions of section three of this act by reason of its containing more than eighty-eight per centum of watery fluids and less than twelve per centum of milk solids, shall be liable to a penalty of twenty-five dollars for the first offense, and to a penalty of fifty dollars for the second and each subsequent offense; (a) *provided, however*, that in any such case it shall be the duty of the Board of Health of the State of New Jersey, or the local board of health, as the case may be, within forty-eight hours after making an analysis, to cause to be mailed to the person charged with such violation a notice, stating that an analysis of the milk taken from the possession of such person has shown the same to be below the statutory standard with regard to solids, and that therefore such person is guilty of a violation of this act, and stating the liability incurred by such person by reason of such violation. In case the person charged with such violation has not previous thereto paid a penalty for any alleged violation of this act, or has not been convicted of any violation of this act, and shall within fifteen days after the mailing of said above-mentioned notice pay to the Attorney-General of this State, for the use of the State, or to the local board of health, for the use of the municipality, as the case may be, a penalty of fifteen dollars, no action for the recovery of a penalty shall be commenced against such person for said violation; *provided further*, that hereafter the payment of a penalty for an alleged violation of this act, either before or after the institution of proceedings for the collection thereof, shall for the purposes of this subdivision be deemed equivalent to a conviction of the violation for which such penalty was paid.

It shall be a sufficient mailing of the notice required by this subdivision if the same is deposited in the post-office, postage prepaid, addressed to the name and address given by the person in charge of the milk from which such sample was taken, to the inspector or other person who took the said sam-

(a) In a prosecution for a second offense, a former conviction, although appealed from, was legal proof of a first offense committed. *Murphy v. Montclair*, 10 Vr. 673.

ple, as the name and address of the owner of the said milk from which such sample was taken.

IV. Any person who shall violate said section four of this act by distributing or selling or by having in his possession with intent to distribute or sell the same, any milk or cream which is or shall be impure under the provisions of section three of this act, by reasons of the addition thereto or mixing therewith of any water, drug, chemical, preservative or other substance, shall be liable to a penalty of fifty dollars for the first offense, to a penalty of one hundred dollars for the second offense, and to a penalty of two hundred dollars for the third and each subsequent offense.

V. If any person charged with the violation of any of the provisions of this act concerning impure foods or impure drugs, shall prove at the hearing or trial of the complaint that the article alleged to be impure was purchased in a sealed can, vessel or package, under a warranty from any person or persons residing within this State, that said article was pure within the meaning of this act, and shall further prove that the said sealed can, vessel or package in which said article was delivered to the person so charged by the said warrantor had not been unsealed or opened, or the contents thereof tampered with in any way since said delivery, and shall have filed prior to the hearing or trial in the District Court or with the justice of the peace, police justice or recorder before whom the case is prosecuted, and with the attorney of the prosecutor of the case a copy of such warranty, the person so complained against shall be discharged from prosecution. In order that such warranty of any article of food or drug shall justify such discharge, the can, vessel or package in which such article of food or drug shall be contained shall contain the name of the article and the name and address of the warrantor and shall be sealed in such a manner that the contents thereof may not be tampered with without breaking the seal; the said warranty shall specifically name and describe the article or articles warranted and shall be of the following form, to wit: "It is hereby warranted that the following described articles, to wit (giving the name of article, marks on containers, size of containers and number of containers so warranted), are pure, within the meaning of the act of the Legislature of the State of New Jersey, entitled 'An act to secure the purity of foods, beverages, confectionery, condiments, drugs and medicines, and to prevent deception in the distribution and sales thereof,' approved March twenty-first, one thousand nine hundred and one." (a)

Form of
warranty.

(a) Actions for penalties are civil actions. *Brophy v. Perth Amboy*, 15 Vr. 217; *White v. Neptune City*, 27 Vr. 222; *Pennsylvania Railroad v. New Jersey Society*, 10 Vr. 400; *Greeley v. Passaic*, 13 Vr. 429.

Where the penalty may be either a fine or imprisonment, it is in the nature of a criminal proceeding. *Unger v. Fanwood*, 40 Vr. 551, and cases there cited.

Jurisdiction
to issue
process.

Nature of
process.

Hearing and
judgment.

14. Every District Court and every justice of the peace in any city or county, and every police justice or recorder in any city, is hereby empowered on complaint under oath or affirmation made according to law that any person or persons has or have violated any of the provisions of this act, to issue process, in the name of the Board of Health of the State of New Jersey, as prosecutor, for the use of the State of New Jersey, or in the name of any local board of health of the township, city, borough, town or other municipal government within whose limits the penalty may have been incurred, as prosecutor, for the use of such township, city, borough, town or other local municipal government; said oath or affirmation, if made by any member, inspector, or other officer of the State Board of Health, or of any local board of health, may be upon information or belief; said process shall be in the nature of either a summons or warrant against the person or persons so charged; when in the nature of a warrant, it shall be returnable forthwith, but before any warrant shall issue out of any District Court the judge thereof shall endorse upon the complaint an order in the following or similar words, "let the warrant issue in this case," to which said judge shall sign his name; and when in the nature of a summons it shall be returnable in not less than one or more than ten entire days; such process shall state what section of the law is alleged to have been violated by the defendant or defendants; and on the return thereof, or at any time to which the trial shall have been adjourned, the said District Court, justice of the peace, police justice or recorder, if no jury be demanded in accordance with the provisions of the next succeeding section, shall proceed to hear the testimony, and to determine and give judgment in the matter, without the filing of any pleadings, either for the prosecutor for the recovery of such penalty with costs, or for the defendant, or defendants; if such judgment be for the prosecutor as aforesaid, it shall be in the following or similar form: "State of New Jersey, county of —, ss: Be it remembered that on this — day of —, in the year of our Lord nineteen hundred —, at —, in said county, C. D., defendant, was, by the District Court of the city of T. (or by me, E. F., justice of the peace, police justice or recorder of the city of —, or as the case may be) convicted of violating the — section of the act of the Legislature of New Jersey entitled 'An act to secure the purity of foods, beverages, confectionery, condiments, drugs and medicines, and to prevent deception in the distribution and sales thereof,' approved the — day of —, A. D. nineteen hundred —, in a summary proceeding, at the suit of the Board of Health of the State of New Jersey (or of the local board of health of the township of A., or as the case may be), as prosecutor; and further that the witnesses in said proceeding who testified for the prosecutor were (name them); and the witnesses who testified for the defendant were (name them); wherefore the

said court (or justice of the peace, police justice or recorder, as the case may be) doth hereby give judgment that the prosecutor recover of the defendant fifty dollars penalty and ——— dollars costs of this proceeding, and that execution do issue against the goods and chattels of said defendant for the amount of said penalty and costs, and for want of sufficient goods and chattels, whereon to levy and make the same, to take the body of the defendant and convey him to the common jail of the county and deliver him to the keeper thereof to be there confined until the said penalty and costs be fully paid, or until he be thence delivered by due course of law;" said judgment shall be signed by the judge of the District Court, justice of the peace, police justice or recorder giving the same.

15. Either party to any proceeding instituted under the provisions of this act may, at any time previous to the hearing of the complaint in such proceeding, demand a trial by jury, and if a jury is demanded a venire shall be issued to summon a jury of twelve men, being citizens of this State above the age of twenty-one years and under the age of sixty-five years, and in nowise akin to the defendant or defendants, nor interested in the proceeding, to be and appear before the District Court, justice of the peace, police justice or recorder issuing the venire, at such time and place as shall be expressed therein, to make a jury for the trial of the matter mentioned therein; and the constable or sergeant-at-arms shall, at the return of the said venire, return, annexed thereto, a panel containing the names of the jurors whom he shall have summoned by virtue thereof; and if, on the return of the venire, it shall appear that one or more of the jurors are disqualified to serve, or do not appear, then it shall be lawful for the constable or sergeant-at-arms who served the same, by order of the court, justice of the peace, police justice or recorder before whom the trial is to be had, immediately to summon others who shall serve in their stead; such jury, having been first duly sworn or affirmed according to law, with the court, justice of the peace, police justice or recorder before whom the trial is to be had, shall thereupon proceed to hear the testimony, the jury rendering their verdict upon the facts, and the court, justice of the peace, police justice or recorder deciding upon all questions of law; if the jury find the defendant or defendants guilty, the court, justice of the peace, police justice or recorder shall give judgment in the matter, without the filing of any pleadings, for the prosecutor for the recovery of said penalty with costs; if the jury find the defendant or defendants not guilty, the judgment shall be generally for such defendant or defendants; if judgment be given for the prosecutor as aforesaid, it shall be in the following or similar form: "State of New Jersey, county of ——— ss: Be it remembered that on this ——— day of ———, in the year of our Lord nineteen hundred and ———, at ——— in said county, C. D., defendant, was by a jury duly summoned before the district court of the city of T. (or, before me, E. F., justice of the peace, police justice or recorder of the

Trial by jury; summons, testimony, etc.

Form of judgment.

city of ———, or as the case may be) convicted of violating the ——— section of the act of the Legislature of the State of New Jersey entitled 'An act to secure the purity of foods, beverages, confectionery, condiments, drugs and medicines, and to prevent deception in the distribution and sales thereof,' approved the ——— day of ———, A. D. nineteen hundred and ———, in a summary proceeding, at the suit of the Board of Health of the State of New Jersey (or of the local board of health of the township of A., or as the case may be), as prosecutor; *and further*, that the witnesses in said proceeding who testified for the prosecutor were (name them), and the witnesses who testified for the defendant were (name them); wherefore the said court (or, justice of the peace, police justice or recorder, as the case may be) doth hereby give judgment that the prosecutor recover of the defendant fifty dollars penalty and ——— dollars costs of this proceeding, and that execution do issue against the goods and chattels of said defendant for the amount of said penalty and costs, and for want of sufficient goods and chattels whereon to levy and make the same, to take the body of the defendant and convey him to the common jail of the county and deliver him to the keeper thereof, to be there confined until the said penalty and costs be fully paid, or until he be thence delivered by due course of law;" said judgment shall be signed by the judge of the District Court, justice of the peace, police justice or recorder giving the same.

As amended
April 4, 1902.
P. L. 1902, p.
579.

Appeal may
be had.

Proviso.

16. If either the prosecutor or the defendant or defendants be dissatisfied with any judgment given under the provisions of either the fourteenth or the fifteenth section of this act, the dissatisfied party may appeal to the Court of Common Pleas of the county in which the judgment appealed from shall have been rendered, which appeal shall be taken by filing with the court, justice of the peace, or recorder who gave the judgment, a notice of such appeal, signed by the appealing party, or his, her or their agent; *provided, however*, that no appeal shall be allowed to or taken by any defendant from any judgment against such defendant unless, with said notice of appeal, such defendant shall also file a bond, with at least one sufficient surety to be approved by the court, justice of the peace or recorder who shall have given the judgment, in double the amount of the judgment, and conditioned that the appellant or appellants shall appear and prosecute the appeal in said Court of Common Pleas, shall stand to and abide the judgment of said Court of Common Pleas, and shall pay such costs as shall be taxed against the appellant or appellants, if the judgment appealed from be affirmed; the court, justice of the peace or recorder who shall have given the judgment appealed from shall send a transcript of the proceedings and judgment and said notice of appeal, together with any bond that may have been filed under the provisions of this section above contained, to the clerk of the Court of Common Pleas to which the appeal

is taken on or before the first day of the term of said court next ensuing such appeal; in any case of appeal by a defendant after execution shall have been issued, the Court of Common Pleas to which the appeal is taken, upon receiving satisfactory proof that the notice of appeal above mentioned has been filed with the court, justice of the peace or recorder who gave the judgment, and upon filing with the clerk of the Court of Common Pleas to which the appeal is taken, such bond as aforesaid, to be approved by said Court of Common Pleas, may stay the execution until the further order of said last-mentioned court, a rule to which effect shall be entered in the minutes of the said last-mentioned court and a copy thereof, certified by the clerk of said last-mentioned court, shall be served on the constable in whose hands the execution may be; the proceedings for bringing on the hearing of such appeal, and for conducting such hearing, shall be the same as in the case of the trial of causes on appeal to the Court of Common Pleas under the provisions of the act entitled "An act constituting courts for the trial of small causes," approved the twenty-seventh day of March, in the year one thousand eight hundred and seventy-four, and the acts supplementary thereto and amendatory thereof. (a)

17. In case judgment as aforesaid shall be rendered against any defendant, in any such proceeding as aforesaid, execution shall thereupon be granted by the court, justice of the peace, police justice or recorder giving the judgment, commanding the officer to whom the execution is delivered to levy and make the amount of the penalty and costs imposed by the judgment out of the goods and chattels of the defendant, and for want of sufficient goods and chattels whereon to levy and make the same, to take the body of the defendant and convey him to the common jail of the county and deliver him to the keeper thereof, to be there confined until the said penalty and costs be fully paid, or until he be thence delivered by due course of law.

Execution
against
defendant.

(a) On *certiorari* the Supreme Court will not review a decision upon questions of fact. If there was legal evidence before the court below upon which the certified judgment can be based, the court will not reverse because the evidence would lead it to a different conclusion. *Vandegrift v. Meihle*, 37 Vr. 92.

When an appeal is dismissed for want of prosecution, the judgment below stands good. *Lum v. Price*, 1 Har. 195.

An appeal regularly taken supersedes the judgment of the justice. *De Camp v. Miller*, 15 Vr. 620. Common Pleas may reinstate appeal dismissed for apparent good cause, &c. *Lush v. Foster*, 15 Vr. 378. If an appeal be improperly taken, the party aggrieved may still have remedy by *certiorari* after dismissal of appeal. *Gifford v. Mills*, 28 Vr. 572; *Leeds v. Mueller*, 22 Vr. 236; *Whedder, &c., Manufacturing Company v. Carty*, 24 Vr. 336. On appeal Common Pleas proceeds *de novo*, exercising its common law powers, and its proceedings are entitled to favorable intendment. *Schneider v. Marinelli*, 33 Vr. 739. The actual signing of a notice of appeal is unnecessary. *State Board of Health v. McCue*, 60 Atl. Rep. 1094. No notice of hearing of appeal is necessary. *Johnson v. O'Neil*, 17 Vr. 510.

Serving of
process or
execution.

Costs
allowed.

Penalty
payable to
prosecutor.

Commitment
in default
of bail.

Misdemeanor
to utter false
warranty.

As amended
March 30,
1906.
P. L. 1906, p.
84.
Annual ex-
penditure of
State Board
of Health.
Proviso.

Dairy com-
missioner
abolished.

18. The officers to serve and execute any process or execution issued as aforesaid shall be the constable of the county, and within the jurisdiction of any District Court shall include the sergeant-at-arms thereof, which service and execution shall in all cases be made in the same manner and under the same liabilities that other processes and executions issued out of the District Court of this State are served and executed under and by virtue of the provisions of the act entitled "An act concerning District Courts," approved June fourteenth, in the year eighteen hundred and ninety-eight; the costs taxable and recoverable in any case prosecuted as aforesaid shall be the costs allowed by the act last above mentioned in cases prosecuted in District Courts; the penalty recoverable in any such action shall be paid to the prosecutor therein, who shall pay the same into the treasury of this State when such prosecutor is the State Board of Health, and when the prosecutor is a local board of health such local board shall pay the penalty into the treasury of the township, city, borough, town or other local municipal government within which such local board has jurisdiction; the judge of the District Court, justice of the peace, police justice or recorder before whom any case is prosecuted under the provisions of this act may adjourn the hearing thereof from time to time, not exceeding thirty days from the return day of the summons or warrant; and in any case where a warrant shall have been issued may require the defendant to enter into a bond with sufficient surety to the plaintiff in the penal sum of two thousand dollars, conditioned to appear at the time and place of the hearing or trial, and in default of such bond may commit the defendant to the common jail of the county to be there detained until the hearing or trial of the complaint; and if any defendant shall fail to appear at the time and place to which the hearing or trial shall be so adjourned, the bond shall be delivered to the prosecutor, who may sue thereon, and all moneys recovered in such suit shall be paid by the prosecutor into the same treasury into which it is above required to pay the penalty recovered from any defendant for violation of any of the provisions of this act.

19. Any person who shall give or utter any false warranty of the form prescribed in the fifteenth section of this act, shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not more than five hundred dollars, or imprisonment at hard labor for not more than one year, at the discretion of the court.

20. The State Board of Health may expend annually for the purposes of carrying out the provisions of this act a sum not exceeding twenty thousand dollars, which sum shall be paid by the Treasurer of this State upon the warrants of the Comptroller; *provided, however*, that an appropriation therefor shall first be made by the Legislature.

21. The office of State Dairy Commissioner is hereby abolished, and all duties now imposed upon the State Dairy Com-

missioner by an act of the Legislature not repealed by this act, shall hereafter be performed by the chief inspector appointed under the authority of this act, and under the direction of the State Board of Health.

22. The following acts are hereby repealed: "An act to protect butter and cheese manufacturers," approved March twenty-third, eighteen hundred and sixty-five; "An act relative to the Dairy Commissioner," approved June thirteenth, eighteen hundred and ninety-five; "An act to prevent the adulteration and to regulate the sale of milk," approved March fourteenth, eighteen hundred and eighty-two, and all acts supplementary thereto and amendatory thereof; "An act to prevent the adulteration of food or drugs," approved March twenty-fifth, eighteen hundred and eighty-one, and all acts supplementary thereto and amendatory thereof; "An act to prevent the adulteration of candy," approved March fourteenth, eighteen hundred and ninety-five; and "An act to prevent deception in the sale of cakes and biscuits and to preserve the public health," approved March twenty-second, eighteen hundred and ninety-five, and all other acts and parts of acts inconsistent with this act.

Sundry acts
repealed.

23. This act shall take effect on the first day of November, in the year nineteen hundred and one.

Supplement.

Approved April 4, 1902.

P. L. 1902, p.
579.

[NOTE.—The first and second sections of this act amend sections 12 and 16 of original act; sections 3 and 4 are repealed by act of May 22d, 1905 (*post*), and section 5 rendered inoperative by such repeal. Section 12 was again amended May 3d, 1906. See section 12, *supra*.]

6. The State Board of Health shall, from time to time, have power to fix the limits of variability permissible in any article of food or drug, the standard of which is not fixed in any law of this State.

Supplement.

Approved April 7, 1903.

P. L. 1903, p.
210.

1. No person shall knowingly distribute or sell, or offer to distribute or sell, or have in his possession with intent to distribute or sell, any milk which has been produced by cows that have not been daily supplied with pure and wholesome water; and no person shall wash or attempt to cleanse any can or utensil used for handling or transporting milk; in water which he shall have reason to believe is polluted, contaminated or impure.

Pure water
for cattle.

Cleansing
cans.

2. Every person who shall violate any of the provisions of the first section of this act shall be liable to a penalty of fifty dollars, which shall be recoverable in the same manner and in any court or before any magistrate that any penalty is recoverable under the provisions of the act to which this act is a supplement.

Penalty.

Supplement.

Approved March 30, 1904.

P. L. 1904, p.
365.Cleansing of
milk cans.

1. It shall be the duty of any person, persons or corporation to whom milk is shipped by any person in this State, before returning to such shipper the can or vessel used for transporting such milk, to remove all milk from such can or vessel and to thoroughly rinse such can or vessel with pure water or to cause the same to be done; and it shall be the duty of any person, persons or corporation shipping milk to any point or points within or without this State to thoroughly cleanse, or cause to be cleansed, the can or vessel used for transporting such milk before the milk is placed therein.

Penalty.

2. Whenever any person, persons or corporation shall violate any of the provisions of the first section of this act, such person, persons or corporation shall be liable to a penalty of twenty-five dollars, which shall be recovered in the same manner and in any court or before any magistrate that any penalty is recoverable under the provisions of the act to which this is a supplement.

Supplement.

Approved March 30, 1904.

P. L. 1904, p.
374.Municipal
inspectors of
foods and
drugs.

1. The board of health of any municipality in this State shall have the power to designate from among its sanitary inspectors one or more inspectors who shall be known as inspector or inspectors of foods and drugs of such municipality, and whose duties shall be, besides the usual duties of a sanitary inspector in such municipality, to aid in the enforcement of the act to which this is a supplement, and who shall have all the powers and authority given or to be given by said act or the acts supplementary thereto or amendatory thereof to any inspector appointed thereunder.

Supplement.

Approved May 22, 1905.

P. L. 1905, p.
475.Standard of
purity of
apple
vinegar.

1. No person shall distribute or sell, or offer for distribution or sale, or have in his possession with intent to distribute or sell, as cider vinegar or apple vinegar, any vinegar which is not produced exclusively by the alcoholic and subsequent acetous fermentations of the juice of apples, or is not levorotatory, or the total amount of acid in one hundred cubic centimeters of which, calculated as acetic acid, is less than four grams, or which contains less than one and six-tenths grams of apple solids or less than twenty-five one-hundredths of one gram of apple ash in one hundred cubic centimeters. The water-soluble ash from one hundred cubic centimeters of the vinegar shall require not less than thirty cubic centimeters of decinormal acid to neutralize its alkalinity, and shall contain not less than ten milligrams of phosphoric anhydride.

2. No person shall distribute or sell, or offer for distribution or sale, or have in his possession with intent to distribute or sell as wine vinegar or grape vinegar, any vinegar which is not produced exclusively by the alcoholic and subsequent acetous fermentations of the juice of the grape, or the total amount of acid in one hundred cubic centimeters of which, calculated as acetic acid, is less than four grams, or which contains less than one and four-tenths grams of grape solids, or less than thirteen one-hundredths of one gram of grape ash in one hundred cubic centimeters.

Grape
vinegar.

3. No person shall distribute or sell, or offer for distribution or sale, or have in his possession with intent to distribute or sell, as malt vinegar, any vinegar which is not made exclusively by the alcoholic and subsequent acetous fermentations, without distillation, of an infusion of barley malt or cereals whose starch has been converted by malt, or is not dextro-rotatory, or the total amount of acid in one hundred cubic centimeters of which, calculated as acetic acid, is less than four grams, or which contains less than two grams of solids or less than two-tenths of one gram of ash in one hundred cubic centimeters. The water-soluble ash from one hundred cubic centimeters of the vinegar shall require not less than four cubic centimeters of decinormal acid to neutralize its alkalinity and shall contain not less than nine milligrams of phosphoric anhydride.

Malt vinegar.

4. No person shall distribute or sell, or offer for distribution or sale, or have in his possession with intent to distribute or sell, as sugar vinegar, molasses vinegar or syrup vinegar, any vinegar which is not made exclusively by the alcoholic and subsequent acetous fermentations of solutions of a sugar, syrup, molasses or refiners' syrup, or the total amount of acid in one hundred cubic centimeters of which, calculated as acetic acid, is less than four grams.

Sugar
vinegar.

5. No person shall distribute or sell, or offer for distribution or sale, or have in his possession with intent to distribute or sell, as glucose vinegar, any vinegar which is not made exclusively by the alcoholic and subsequent acetous fermentations of solutions of starch sugar, glucose or glucose syrup, or is not dextro-rotatory, or the total amount of acid in one hundred cubic centimeters of which, calculated as acetic acid, is less than four grams.

Glucose
vinegar.

6. No person shall distribute or sell, or offer for distribution or sale, or have in his possession with intent to distribute or sell, as spirit vinegar, distilled vinegar or grain vinegar, any vinegar which is not made exclusively by the acetous fermentation of dilute distilled alcohol, or the total amount of acid in one hundred cubic centimeters of which, calculated as acetic acid, is less than four grams.

Spirit
vinegar.

7. No person shall distribute or sell, or offer for distribution or sale, or have in his possession with intent to distribute or sell, any vinegar, the total amount of acid in one hundred

Purity
preserved.

cubic centimeters of which, calculated as acetic acid, is less than four grams, or which contains any mineral acid, any artificial coloring matter or any preservative.

Name of
maker and
brand.

8. No person shall distribute or sell, or offer for distribution or sale, or have in his possession with intent to distribute or sell, any vinegar contained in any barrel, vessel, bottle or package unless such barrel, vessel, bottle or package bears a label or imprint thereon in legible type, designating the name and address of the manufacturer of the vinegar and the name of the particular kind of vinegar contained therein.

Penalties.

9. Any person violating any of the provisions of the first, second, third, fourth, fifth, sixth, seventh or eighth sections hereof shall be liable to a penalty of fifty dollars to be sued for and recovered in the same manner as penalties are recovered under the act to which this act is a further supplement.

Repealer.

10. Sections three and four of the act entitled "A supplement to the act entitled 'An act to secure the purity of foods, beverages, confectionery, condiments, drugs and medicines, and to prevent deception in the distribution and sales thereof,' approved March twenty-first, anno domini one thousand nine hundred and one," approved April fourth, one thousand nine hundred and two, be and the same are hereby repealed.

Supplement.

P. L. 1906. p.
263.

Approved April 20, 1906.

Cleanliness
of buildings
and creamery
utensils.

1. No person or persons, firm or corporation, buying or receiving milk or cream for the purpose of selling the same as such, or for manufacturing the same into butter, cheese, condensed milk or other food for human beings, shall place, keep or store the same in any vat, tank, can, bottle, vessel, utensil or other receptacle which is unclean, and every building or structure in which milk or cream is received, and which milk or cream is intended for sale, shall be provided with an abundant supply of pure and wholesome water, and shall be provided with adequate facilities for the cleansing of all receptacles and utensils employed in handling milk or cream. The interior surfaces of the walls and ceilings of all such buildings and structures shall be smooth and be kept free from dust. The floors of all rooms in such buildings in which milk is received or kept or handled shall be impervious to water, and the surfaces shall be so graded that waste fluids will flow into a water-tight drain, and be finally disposed of in a manner which will not create a nuisance. No portion of any creamery building shall be used as a dwelling nor as a laundry or kitchen.

Creamery not
inhabitable.

License.

2. No person or persons, firm or corporation, shall operate or conduct any creamery for the reception from dairymen, farmers or producers, of any milk or cream intended for sale, or for the manufacture of the same into butter, cheese, condensed milk or other food for human beings, unless a license shall first have been granted by the Board of Health of the

State of New Jersey to the owner or owners or manager or operator of said creamery or establishment, authorizing said owner or owners or manager or operator to engage in said business of receiving, storing, handling, selling and distributing milk or cream, and said license shall be granted by the said board under such rules and regulations as the said board may from time to time adopt.

3. If any such persons, so licensed, shall violate any of the provisions of this act, or any of the rules and regulations provided for in section two of this act, he or they shall forfeit his or their license, and no new license shall be granted to the said party or parties until the requirements of this act and of the said rules and regulations shall have been complied with.

License
forfeited for
violation.

4. It shall be the duty of the State Board of Health to notify, in writing, the local board of health of every sanitary district in which milk or cream is sold, and which milk or cream is found to be collected, stored, transported or distributed under unclean or unwholesome conditions.

Local boards
notified.

5. Any person or persons who shall operate or conduct a creamery or establishment for receiving milk or cream from dairymen or producers for distribution and sale, or for manufacturing the same into butter, cheese, condensed milk or other food for human beings, without holding a license as provided for in section two of this act, shall be liable to a penalty of two hundred dollars, said penalty to be recovered in the same way and manner as similar penalties are recovered under the provisions of the act to which this act is a further supplement.

Penalties.

6. The word "creamery" as used in this act shall be construed to mean any establishment where milk is received or stored for sale or distribution by wholesale, or for the manufacture of the same into butter, cheese, condensed milk or other food for human beings.

"Creamery"
defined.

An Act to prevent deception in the sale of oleomargarine, but- terine or any imitation of dairy products, and to preserve the public health.

Approved March 22, 1886.

Gen. Stat., p.
1164.

1. That no person shall offer or expose for sale, or sell, or have in possession for the purposes of sale, any oleomargarine or butterine or suine, or any substance in imitation or semblance of natural butter or cheese, or any substance that is rendered, made, manufactured or compounded out of any animal or vegetable or mineral fat or oil, not produced from pure milk or cream from pure milk, unless contained in, or sold out of or in tubs, pails, firkins, vessels or other packages marked and labeled as required by section three of this act.

Sold out of
tubs, etc.

2. That no person shall offer or expose for sale, or sell, or have in possession for the purposes of sale, any mixture or compound of natural butter or cheese with oleomargarine, but-
terine, suine, or any animal or vegetable or mineral fat or oil,

Compound
to be sold
out of tubs,
etc.

or any substance not the product of pure milk or cream from pure milk, except such mixture or compound shall be sold out of or in or contained in tubs, firkins, pails, vessels or packages marked or labeled as required by section three of this act.

Imitations,
how sold.

3. That no oleomargarine, butterine or suine, or any substance or compound or mixture in imitation or semblance of natural butter or cheese, or any substance that is rendered, made, manufactured or compounded out of animal or vegetable or mineral fat or oil, not the product of pure milk or cream from pure milk, shall be sold or exposed or offered for sale, or held in possession for the purposes of sale, except when contained in tubs, pails, boxes, firkins, vessels or other packages that are marked or labeled as follows, to wit: every such tub, pail, box, firkin or other vessel or package shall have painted on the outside thereof, and midway between the top and bottom thereof, a stripe or band at least three inches wide, and extending completely around said vessel or package, and said stripe or band shall be painted with black paint; every such vessel or package shall have legibly branded and burnt in, by means of a branding or burning-iron, on the outside of the cover and on the outside of said vessel or package, in two places as nearly opposite each other as possible, the words "oleomargarine," "butterine," "suine" or "imitation butter," or "imitation cheese," as the case may be, and said name or title shall be composed of Roman letters at least one-half an inch high and at least one-quarter of an inch broad, and said name or title shall be at least ten inches long; and every such tub, pail, box, firkin or other vessel or package shall bear a label or shall have branded on it a mark giving the name and address of the maker of the contents thereof, and the name and location of the manufactory.

As amended
April 21,
1887.
Gen. Stat., p.
1167.

4. That no person shall sell any oleomargarine, butterine, suine or any substance in imitation or semblance of natural butter or cheese, or any substance that is rendered, made, manufactured or compounded out of any animal or vegetable or mineral fat or oil, not produced from pure milk or the cream from pure milk, at retail or in quantities less than the original tub, firkin or other package, unless he shall first inform the purchaser that the substance is not natural butter or cheese, but is imitation butter or cheese, and at the time of sale and with each sale, he shall give to the purchaser a card or notice printed on which shall be the name of the substance sold and the name and address of the seller or vendor, and nothing else shall be printed thereon unless it be the weight of the parcel; and said notice or card shall be at least six inches long and at least four inches wide, and the printing thereon shall be in letters at least of the size known as two-line English, and said notice or card shall be printed in black and in the English language, upon white paper, plainly and legibly, and shall be either upon the outside of the outer wrapper in which the substance is delivered to the purchaser or upon a separate card or paper attached thereto; in either case the

Not to be
sold in quan-
tities less
than tub,
unless pur-
chaser noti-
fied, etc.

Card or
notice to be
given.

notice shall be so placed that no part thereof shall be concealed from view.(a)

5. That no person shall offer or expose for sale, or sell, or have in possession for the purposes of sale, any oleomargarine, butterine, suine or any substance in imitation of natural butter or cheese, or any substance that is rendered, made, manufactured or compounded out of any animal or vegetable or mineral fat or oil, not produced from pure milk or cream from pure milk, that is colored, stained or mixed with annatto or any other coloring matter or substance.(b)

Sale of colored oleomargarine, etc., prohibited.

6. That for the purposes of this act the terms "natural butter," or "natural butter or cheese," shall be taken to mean the product or products usually known by these names and which are made and manufactured exclusively from milk or cream, or both, with salt or salt and rennet, and with or without coloring matter or sage; and the terms "oleomargarine," "butterine," "suine" or "substance in imitation or semblance of natural butter or cheese," shall be to mean any substance that is rendered, made, manufactured or compounded out of any animal or vegetable or mineral oil or fat, not the product of pure milk or the cream from pure milk; also, any compound or mixture of natural butter or cheese, or milk or cream, with any of these substances not milk or cream.

Certain terms, how construed.

7. That the possession by any person who is either manufacturer, merchant, broker, wholesale or retail dealer, or a hotel, inn, restaurant or boarding-house keeper, of any oleaginous substance, mixture or compound whatever as defined by this act, not natural butter, that is not contained in a tub, box, pail or vessel, plainly marked and branded in accordance with

Evidence of intent to sell.

(a) In an action for a penalty for violation of this section, it has been held that notice must be given to each purchaser according to the terms of the statute; that the statute does not require it to be shown that the article sold was deleterious, or that deception was practiced; it is sufficient if notice be not given. *Bayles v. Newton*, 27 Vr. 549; affirmed 22 Vr. 553. The complaint must set out the name of the person to whom sale was made, if known or ascertainable, and if such name be unknown or not ascertainable, then such fact must be set out. *Feigen v. McGuire*, 35 Vr. 152.

(b) Under this section it is not essential to the guilt of a person selling oleomargarine colored with annatto that he should know that the oleomargarine was so colored. *Waterbury v. Newton*, 21 Vr. 534. This act is valid as applied to a sale made in this State by the agent of the manufacturer in Indiana, although the package sold here had been sent by the manufacturer from Indiana to this State for sale. *Id.* The clause "annatto or any other coloring matter or substance," includes only those substances which, in the manufacture of oleomargarine, etc., are used, like annatto, solely or chiefly to color the product, and does not extend to the materials which are employed chiefly to make up the substance of the compound and which impart color only as a necessary incident to their use. *Ammon v. Newton*, 21 Vr. 543. If oleomargarine derive any color or stain from "annatto or any other coloring matter or substance," mixed in it at any stage of the manufacture, whether of the several ingredients or of the final product, the sale is forbidden by the act. *Waterbury v. Newton*, 21 Vr. 545.

As to what conviction should recite where section of law may be violated in several respects, see *Schnieder v. Marinelli*, 33 Vr. 739.

the provisions of section three of this act, shall be prima facie evidence of intent to sell the same.

Not to
obliterate
band or
brands.

8. That no person shall in any way or manner erase, cancel or obliterate, deface or cover over or remove either the band or stripe of paint, or the brands required by section three of this act to be placed on the tub, box, pail, or vessel containing any oleaginous substance, mixture or compound, as defined by this act.

Penalty.

9. That every person who shall violate any of the provisions of this act shall be liable to a penalty of one hundred dollars for the first offense, and two hundred dollars for each second or subsequent offense.

Courts to
hear cases.

10. That every District Court in any city, and every justice of the peace in any county, and any recorder in any city, is hereby empowered on oath or affirmation made according to law that any person or persons has or have violated any provision of this act, to issue process at the suit of the commissioner hereafter named as plaintiff, for the use of the State of New Jersey, either in the manner of a summons or a warrant against the person or persons so charged, which process shall, when in the nature of a warrant, be returnable forthwith, and when in the nature of a summons shall be returnable in not less than one or more than ten entire days; such process shall state what provision of the law is alleged to have been violated by the defendant or defendants, and on the return of such process, or at any time to which the trial shall have been adjourned, the said court, justice of the peace or recorder shall proceed to hear testimony and to determine and give judgment in the matter, without the filing of any pleadings, for the plaintiff, for the recovery of such penalty, with costs, or for the defendant; and the said court, justice of the peace or recorder shall, if judgment be rendered for the plaintiff, forthwith issue execution against the goods and chattels and person of the defendant or defendants; and the said court, justice of the peace or recorder is further empowered to cause any such defendant who may refuse or neglect to pay the amount of the judgment rendered against him, and all the costs and charges incident thereto, unless an appeal is granted, to be committed to the county jail for any period not exceeding ninety days. (a)

Execution
against goods
and body.

Who author-
ized to serve
process.

11. That the officers to serve and execute all process under this act shall be the officers authorized to serve and execute process in said courts, and before such magistrates and officers as aforesaid, including the constables of such counties and all police officers of such cities.

(a) Trial by jury does not exist under this act. *Carter Bros. v. Camden District Court*, 20 Vr. 600. Partners may be convicted in the same action if the offense be committed by one in the course of the partnership business, but only one penalty is recoverable. *Bayles v. Newton*, 21 Vr. 549. One who sells by an agent in charge of his store is liable to the penalty as if he sold the contraband article himself. *Newton v. Reed*, 10 N. J. L. J. 175.

12. That said District Court, justice of the peace or recorder shall have power to adjourn the hearing or trial in any case, from time to time, not exceeding thirty days from the return of the summons or warrant, and to bail the person so charged in such sum as he shall deem proper for his appearance at such time and place as said trial or hearing shall be adjourned to, and in default of bail to commit the person so charged to the common jail of said county, to be there detained until the trial or hearing of said charge.

Adjourn-
ment and
bail.

13. That either the complainant or defendant, upon paying all costs incurred and by filing with said District Court, justice or recorder, within ten days after trial before him, a written notice of his or her intention to appeal from the decision of said court, justice or recorder, may appeal to the next Court of General Quarter Sessions of the Peace of the county in which said complaint may have been determined, and said Court of General Quarter Sessions shall proceed and try the same and make such adjudications as are herein provided in case of such trial before said District Court, justice or recorder. (a)

Appeal.

14. That all penalties imposed under this act shall be, immediately on receipt, paid into the treasury of this State by the commissioner.

15. [See Supplement of April 20th, 1906, *post.*]

16. That the said commissioner shall be authorized to expend for the purposes of this act an amount not exceeding ten thousand dollars in any one year, and all expenses shall be paid by the Treasurer of this State on warrant of the Comptroller, upon presentation of properly-certified accounts made by said commissioner, but such expenses shall not exceed in any one year the amount stated in this section.

P. L. 1906, p.
265.
Expendi-
tures.

17. That the said commissioner and assistants, and clerks, and agents, as shall be duly commissioned so to do by the commissioner, shall have full and free access, ingress and egress to all places of business, factories, farms, buildings, hotels, restaurants, boarding-houses, carriages, cars, vessels and cans used in the manufacture and sale of any dairy products, or any imitation thereof; they shall also have the power to open any package, can or vessel containing such articles which may be manufactured, sold or exposed for sale in violation of the provisions of this act, if they have reason to believe it is being violated, and may inspect the contents therein, and may take therefrom samples for analysis.

Powers of
commis-
sioner and
assistants.

18. That this act and each section thereof is declared to be enacted to prevent deception in the sale of oleomargarine, but-terine or any imitation of any dairy product, and to preserve the public health.

Intention of
enactment.

(a) Where a party is entitled to review a proceeding by *certiorari* or appeal, and elects to pursue one of the remedies, the other is not open to him. *McGuire v. Golberger*, 42 Vr. 173; *Furman v. Motley*, 38 Vr. 174; *Illingsworth v. Rich*, 29 Vr. 507; *Unger v. Fanwood*, 40 Vr. 549. Jury trial not allowed on appeal. *Newton v. Reed*, 10 N. J. L. J. 175.

Repealer.

19. That an act entitled "An act for the protection of dairy-men, and to prevent deception in sales of butter," approved February twenty-first, one thousand eight hundred and eighty-four, and an act entitled "An act to prohibit the manufacture and sale of impure and imitation dairy products," approved May fifth, one thousand eight hundred and eighty-four and all acts and parts of acts inconsistent or in conflict with this act be and the same are hereby repealed.

Supplement.

Gen. Stat., p.
1167.

Approved April 21, 1887.

1. That nothing in said act shall be so construed as to permit the sale or the offering or exposing for sale, or the having in possession for the purposes of sale, of any oleomargarine or butterine, or any substance in imitation of natural butter, that is colored, stained or mixed with annatto or any other coloring matter or substance.

[NOTE.—Sections 3 and 4 of this act are practically repealed by act of April 20th, 1906, while section 2 is an amendment of original section 4.]

Form of
conviction.

5. That the conviction in prosecutions under the act to which this is a supplement shall be in the following or similar form:
State of New Jersey, county of A., ss.

Be it remembered that on this ——— day of ———, at ———, in said county, C. D., defendant, was, by the District Court of the city of J. (or by the recorder, or as the case is), convicted of violating the ——— section of "An act to prevent deception in the sale of oleomargarine, butterine, or any imitation of dairy products, and to preserve the public health," approved March twenty-second, one thousand eight hundred and eighty-six, in a summary proceeding at the suit of A. B., State Dairy Commissioner, who sues for the use and benefit of the State of New Jersey, plaintiff, upon a complaint made by E. F.; *and, further*, that the witnesses in said proceeding who testified for the plaintiff were (name them), and the witnesses who testified for the defendant were (name them); wherefore the said court (or recorder, or as the case is), doth hereby give judgment that the plaintiff recover of the defendant one hundred dollars penalty, and ——— dollars costs of this proceeding.

Signing of
conviction.

The said conviction shall be signed by the judge of the District Court, recorder or other magistrate before whom the conviction is had; in case of the infliction of a penalty of two hundred dollars the conviction shall contain a statement that it appeared that the defendant had been previously convicted of violating the said act; when an appeal is taken there shall be sent to the Appellate Court a copy of the complaint, summons, conviction or judgment and notice of appeal; the costs

What papers
sent up on
appeal.

in prosecutions under the act to which this is a supplement shall be the same as costs in the District Courts in actions on contract. (a)

Supplement.

Approved March 25, 1895.

1. That no person, by himself or his agents or servants, nor as an agent or servant, shall render or manufacture, sell, offer for sale, expose for sale or have in his possession with intent to sell, any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which shall be artificially colored in imitation or semblance of yellow butter produced from pure unadulterated milk or cream of the same; *provided*, that nothing in this act shall be construed to prohibit the manufacture or sale of oleomargarine in the manner regulated by the act to which this is a supplement, and in such manner as will advise the consumer of its real character, free from artificial color that cause it to look like butter. (b)

Gen. Stat., p. 1169.

Manufacture or sale of imitation butter forbidden.

Proviso.

2. That any person or persons who shall sell any article mentioned in the preceding section of this act representing the same as butter made from unadulterated milk or cream or any product other than it really is except in the manner provided in existing laws, shall be guilty of a misdemeanor, and upon conviction thereof be punished by imprisonment not exceeding six months or a penalty of two hundred dollars in the discretion of the committing magistrate or court.

Penalty.

Supplement.

Approved April 20, 1906.

1. The chief inspector of the Board of Health of the State of New Jersey shall hereafter perform and exercise all of the duties and powers imposed, prescribed or conferred on the State Dairy Commissioner by the provisions of the act to which this act is a further supplement, and process in any action for the recovery of a penalty for violation of any of the provisions of said act to which this act is a further supplement, or any act supplementary thereto or amendatory thereof, shall be issued at the suit of and in the name of said chief inspector as plaintiff.

P. L. 1906, p. 265.

Chief inspector to perform duties of dairy commissioner.

(a) Before this supplement was passed, a case came before the Supreme Court, and it was then held that proceedings under the Oleomargarine act, and the record of them, must conform to the legal rules at common law for framing summary convictions by setting forth the evidence and the offense. This supplement now prescribes a form for all convictions under that act. *Hoeberg v. Newton*, 20 Vr. 617; *Waterbury v. Newton*, 21 Vr. 534.

(b) The proviso in this supplement does not abrogate the regulations prescribed in the original act with regard to sales of oleomargarine. *McGuire v. Doscher*, 36 Vr. 139.

NUISANCES AND CRIMES.

Crimes Act, Revision of 1898.

Approved June 14, 1898.

P. L. 1898, p.
794.Filling low-
land with
decaying
matter.

Proviso.

Proviso.

Waters dis-
tributed for
public use
not to be
polluted.Burial of
offensive
matter.

81. It shall be unlawful for any individual, individuals, firms or corporations owning lands bordering upon the tide or river-waters of this State, or owning or possessing rights to low lands or lands covered by tide or river-waters, to cause or allow said lands to be filled in with any substance containing animal or vegetable matter, or any other material which is or is likely to become prejudicial to the health or comfort of any of the inhabitants of the city or other municipality within whose limits such filling is caused or allowed; *provided*, nothing in this section shall be held to prevent the dumping or depositing of any animal or vegetable matter by any individual or individuals, firm or corporation, or the employe or employes, or agents of such individual or individuals, firm or corporation, during the months of October, November, December, January, February and March; *and provided further*, that the matter or refuse so dumped be covered with earth so that it will not emit any stench, to the discomfort of or danger to the health of the inhabitants of any city or other municipality within whose limits such filling is done; and any person or persons, firm or corporation owning such lands or in possession or having the control thereof, or any officer or officers, agent or agents, attorney or attorneys, employe or employes of any corporation or firm owning or in possession of such lands, who have the control or management thereof on behalf of such corporation or firm, offending against this section, shall be guilty of a misdemeanor.

84. Any person who shall throw, cause or permit to be thrown into any reservoir, or into the waters of any pond or lake or brook, creek or river of this State, which runs through or along the border of any city or other municipality, the waters of which are used to supply any aqueduct or reservoir for distribution for public use, any carcass of any dead animal or any offal or offensive matter whatsoever, calculated to render said waters impure, or to create noxious or offensive smells, or shall connect any water-closet with any sewer, or other means whereby the contents thereof may be conveyed to and into such pond, or lake, or brook, or creek, or river, or reservoir, or shall so deposit, or cause or permit to be deposited, any such carcass, offal or other offensive matter that the washing or waste therefrom shall or may be conveyed to and into any such pond, or lake, or brook, or creek, or river, or reservoir, shall be guilty of a misdemeanor. (a)

85. It shall be the duty of the owner or occupant of any land whereon any carcass, offal or other offensive matter may be, to cause the same to be buried forthwith, so that all portions thereof shall be covered with solid earth to a depth of

(a) See *State v. Wheeler*, 15 Vr. 88.

at least two feet below the surface of the ground, and not within a distance of two hundred feet from any pond, or lake, or brook, or creek, or river, or reservoir, mentioned in the next preceding section; and any such owner or occupant who shall refuse or neglect for the space of two days to remove and bury as aforesaid, or cause to be removed and buried, any such carcass, or offal or offensive matter, shall be guilty of a misdemeanor.

86. Any person who shall throw, cause or permit to be thrown into the waters of any pond, or lake, or brook, creek or river of this State, the waters of which may be used for the cutting and harvesting of ice, any carcasses of any dead animal or any offal or offensive matter whatsoever, calculated to render said waters impure or create noxious or offensive smells, or shall connect any water-closet with any sewer or other means whereby the contents thereof may be conveyed to and into any such pond, or lake, or brook, creek or river, shall be guilty of a misdemeanor.

Pollution of waters from which ice is taken.

87. Any manufacturer of chemicals in this State who shall deposit or cause to be deposited on any vacant lot within one hundred feet of any human habitation any refuse or proceeds from such manufacturer, shall be guilty of a misdemeanor.

Refuse of chemicals.

88. Any person who shall own or have in possession any poultry or animals of any kind that came to their death by reason of any contagious disease, shall, within twenty-four hours after such death, bury such poultry or animals under the surface of the earth to a depth not less than two feet; and any person neglecting or refusing to comply with this section shall be guilty of a misdemeanor.

Burial of poultry or animals dying of contagious disease.

96. Any person who shall sell, either at wholesale or retail, any of the drugs usually denominated poisons, without distinctly labeling each and every box or package thereof with the name of the drug therein, and the word "poison," together with the name and place of business of the seller, shall be guilty of a misdemeanor.

Sale of poisons.

97. Any butcher or other person who shall sell, offer or expose to sale, the flesh of any animal dying otherwise than by slaughter, or slaughtered while diseased, or any contagious or unwholesome flesh; or any baker, brewer, distiller, or other person who shall sell unwholesome bread, drink, or liquor, shall be guilty of a misdemeanor.

Vending of unwholesome provisions.

98. Any person who shall manufacture, or import already manufactured, or barter or sell, or keep in his possession for barter or sale, any rum, brandy, wine or spirits of any kind, or any other liquid of which distilled spirits of any kind shall form a component part to be used as a beverage, that shall be adulterated or manufactured with spurious or poisonous ingredients of any description, shall be guilty of a misdemeanor.

Adulteration of liquor.

99. Any person who shall adulterate, mix, compound or poison any malt liquors, with intent to barter or sell the same,

Drugging liquor.

or shall mix, compound or poison any malt or vinous or spirituous liquors, the one with the other, or in any way whatever, or give, barter or sell the same, with intent to make greater profit, or with intent to produce intoxication or stupefaction, shall be guilty of a misdemeanor.

Manufacture of adulterated lard.

100. Any person who shall knowingly sell or exchange, or expose for sale or exchange, any impure or adulterated lard, or who shall manufacture or refine lard, adding thereto fat of other animals than swine, water, liquid or any chemical substance, and offer the product thereof for sale, without plainly stamping upon the firkin, package, box or parcel containing the same, in plain and durable letters, the words "Adulterated and impure lard," shall be guilty of a misdemeanor.

Rendering or selling fat of diseased swine.

101. Any person who shall render, or cause to be rendered, swine or the fat of swine that have died a natural death by disease or in transportation to market, and expose or offer the product of the same for sale or exchange as lard, shall be guilty of a misdemeanor.

Nuisances.

215. That assaults, * * * nuisances, (a) * * * and all other offenses of an indictable nature at common law, and not provided for by this or some other act of the Legislature, shall be misdemeanors, and be punished accordingly.

Supplement.

Approved March 24, 1903.

P. L. 1903, p. 96.

Subjecting persons to certain diseases a misdemeanor.

1. Any person having reason to believe that he is affected with smallpox, diphtheria, scarlet fever, typhus fever, yellow fever, cholera or plague, who shall appear in any public street, conveyance, building or place, and any person who shall knowingly subject another, without the latter's knowledge, to exposure to the infection of any such disease, shall be guilty of

(a) The common-law courts have an undisputed jurisdiction over public nuisances by indictment, and a court of equity ought not ordinarily to interfere. *Attorney-General v. New Jersey Railroad Co.*, 3 Gr. Ch. 136. An indictment for a nuisance will lie against a turnpike company for not repairing their road. *State v. New Jersey Turnpike Co.*, 1 Harr. 222. Whether a turnpike gate within the limits of dense city population is a nuisance, see *State v. Passaic Turnpike Co.*, 2 Dutch. 217. A railroad company is indictable for a nuisance in erecting a building and leaving their cars in a public highway. *State v. Morris and Essex Co.*, 3 Zab. 360; and whether such obstruction is a nuisance is a question for the jury. *State v. Morris and Essex Co.*, 1 Dutch. 437. So, obstructing the Hudson river by placing vessels and wrecks on the shore between the high and low-water lines. *State v. Babcock*, 1 Vr. 29. Any resort of thieves, &c., is an indictable nuisance. *State v. Williams*, 1 Vr. 102. When the landlord of such a place is liable. *Ibid.* For what nuisances tenant is liable. *Durant v. Palmer*, 5 Dutch. 544. A ten-pin alley kept for public use in a village, although connected with a lager beer saloon, is not a nuisance. *State v. Hall*, 3 Vr. 158. Oysters planted in navigable waters are not a nuisance, unless they interfere with the public rights of fishing and navigation. *State v. Taylor*, 3 Dutch. 117. An indictment for a common nuisance will not lie, unless the facts charged be of such a nature as to justify that conclusion legally as well as a matter of fact. *Morris and Essex Co. v. The State*, 7 Vr. 553. Obstructing a navigable stream is an indictable offense at common law. *State v. Crusius*, 28 Vr. 279; *Newark Plank Road Co. v. Elmer*, 1 Stock. 789.

a misdemeanor; *provided*, that nothing in this section contained shall be understood to prevent the transportation or care of any person infected with any such disease by any board of health or its duly authorized officers or agents.

Proviso.

2. Any person knowing that any room is or has been occupied by any person suffering with smallpox, diphtheria, scarlet fever, typhus fever, yellow fever, cholera or plague, or knowing that any room is or has been infected by any such disease, who shall lease the same or grant or give the right of occupancy thereof to any person or persons before it shall have been disinfected and cleansed in a manner satisfactory to the local board of health within whose territorial jurisdiction such room may be, shall be guilty of a misdemeanor.(a)

Infected room must be disinfected before occupancy.

Supplement.

Approved March 28, 1904.

1. It shall be unlawful hereafter for any person who has been confined in any public asylum or institution as an epileptic or insane or feeble-minded patient, to intermarry in this State, without a certificate from two regularly licensed physicians of this State that such person has been completely cured of such insanity, epilepsy or feeble mind, and that there is no probability that such person will transmit any of said defects or disabilities to the issue of such marriage; any person of sound mind who shall intermarry with any such epileptic, insane or feeble-minded person, with knowledge of his or her disability, or who shall advise, aid, abet, cause or assist in procuring any marriage contrary to the provisions of this act, shall be guilty of a misdemeanor.

P. L. 1904, p. 270.

Marriage of insane, epileptics or feeble-minded forbidden.

Aiding thereto a misdemeanor.

An Act to regulate the sale of petroleum and its products.

Approved March 31, 1882.

1. That hereafter petroleum or any of the products thereof may only be sold for use within this State under the following regulations and restrictions, namely, (a) benzole, gasoline, naphtha and benzine must be sold under their true names respectively, and such names must be plainly shown upon the barrel, can or vessel in which the same are sold or offered or exposed for sale, respectively, or upon a label securely fastened thereto; (b) petroleum or kerosene which will flash at a less temperature than one hundred degrees Fahrenheit, flash test, must have plainly designated upon the barrel, can or vessel in which the same is sold or offered or exposed for sale, or on a label securely fastened thereto, the number of degrees Fahrenheit, flash test, below which the same will not flash; (c) only such product of petroleum as will not flash at a less temperature or flash test than one hundred degrees Fahrenheit, may be sold for lighting or illuminating purposes, except where the

Gen. Stat., p. 2454.

Regulations and restrictions for selling petroleum.

As amended March 22, 1883.

Gen. Stat., p. 2454.

(a) Title of act corrected by Chapter 169, Laws 1904.

same is to be used in streets lamps or open-air receptacles, or in gas machines, in which case (as to petroleum or kerosene) there shall be plainly marked on the barrel, can or vessel in which the same is sold, or offered or exposed for sale, or on a label securely fastened thereto, the words, "not for inside light;" *provided*, that this act shall not apply to petroleum or its products sold in tanks used for transportation.

Penalty
for selling
petroleum
in manner
contrary
to law.

2. That if any person shall sell, or offer or expose for sale, for use within this State, except in the manner permitted by this act, any petroleum or product thereof, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or imprisonment at hard labor or otherwise for a term not exceeding one year, or both, and any sale in quantity less than one barrel shall be presumed to be for use within this State.

State Board
of Health to
determine
the means of
testing
petroleum.
As amended
March 22,
1883.
Gen. Stat., p.
2455.

3. That the State Board of Health of this State shall determine and declare what shall be the means of ascertaining whether or not petroleum or kerosene to be sold for lighting or illuminating purposes is of the character required by this act, and shall notify each local board of health of the same, and publish notices thereof in at least one leading newspaper in each county of the State, and distribute circulars as to the same for common information.

How samples
may be
obtained for
testing.

4. That it shall be lawful at any time during business hours for any member of the State Board of Health, or any analyst or inspector authorized by said board, or for any member of a county, city or township board of health, to visit any place where kerosene or other product of petroleum is on sale, and to secure such quantity thereof as shall be sufficient for testing, at the rate of the usual retail price of said article, and if the same is found to be of such a character as is by this act prohibited from sale for lighting or illuminating purposes generally, the person having the same for sale may be enjoined and prohibited by written notice, signed by such member of a board of health, analyst or inspector, and served upon such person, or upon any agent, servant or employe in charge of said article, from the sale of the same for use within this State for such purposes; and if, thereafter, any of the same shall be so sold, or offered or exposed for sale, for lighting or illuminating purposes, except as permitted by this act, the person thus selling, or offering or exposing for sale, the same shall be liable to the penalties hereinbefore provided.

When pro-
hibited from
selling.

An Act to prevent the discharge or escape of sludge acid into or upon the waters of this State.

Gen. Stat., p.
1675.

Approved April 17, 1884.

Unlawful to
permit or
discharge
"sludge acid"
into streams.

1. That from and after the passage of this act it shall be unlawful for any person, persons, corporation or corporations, to permit the discharge or escape, directly or indirectly, of such refuse or residuum, resulting from the refining of petroleum,

as is commonly called "sludge acid," into or upon any river, stream, water-course, lake, pond or other body of water, or any tidal waters within or bordering upon this State; and every violation of this act shall constitute a public nuisance and shall be punishable as such.

2. That every person, persons, corporation or corporations violating, or whose servants or agents shall violate this act, in addition to the penalty indicated in section one of this act, shall forfeit and pay the sum of one thousand dollars for each violation of this act which shall be proved, to be recovered in any court of competent jurisdiction by any person who shall sue for the same, one-half of said penalty to go to such person so suing therefor and the other half to go to the State. Penalty.

An Act to prevent the adulteration of and deception in the sale of linseed or flaxseed oil.

Approved May 18, 1898.

P. L. 1898, p. 434.

1. No person, firm or corporation shall manufacture or mix for sale, or offer for sale, under the name of raw linseed oil, any article which is not wholly the product of commercially pure linseed or flaxseed; nor shall any person, firm or corporation manufacture or mix for sale, sell or offer for sale, under the name of boiled linseed oil, any article unless the oil from which said article is made be wholly the product of commercially pure linseed or flaxseed, and unless the same has been heated to at least two hundred and twenty-five degrees Fahrenheit.

Adulteration of linseed and flaxseed oils prohibited.

2. Nothing in this act shall be construed as prohibiting the sale or manufacture of any compound of linseed or flaxseed oil; *provided*, that such compound if it imitates in appearance and is designed to take the place of linseed or flaxseed oil, shall not be manufactured or mixed for sale, sold or offered for sale under a name or description containing the words "linseed oil" or "flaxseed oil."

Exception.

Proviso.

3. Any person, firm or corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished for each and every such violation with a fine of not less than fifty dollars nor more than five hundred dollars; and in default of the payment of such fine shall be imprisoned for a period of not less than thirty days.

Penalty.

4. It shall be the duty of the State Dairy Commissioner to enforce the provisions of this act; the violation of any of the provisions of this act is hereby declared to be a public nuisance, and any court of competent jurisdiction is authorized, upon application of the said dairy commissioner, to enjoin such violation in the same manner as injunctions are usually granted under the rules and practice of such court; the said commissioner and his assistants, experts and chemists and others appointed by him shall have access, ingress and egress to and from all places of business and buildings where linseed or flax-

State Dairy Commissioner to enforce act.

seed oil is kept for sale or stored; they shall also have the power and authority to open any tank, barrel, can or other vessel containing such oil, and may inspect the contents thereof and take samples therefrom for analysis; all clerks, bookkeepers, express agents, railroad agents or officials, employees of common carriers or other persons, shall render them all the assistance in their power, when so requested, in tracing, finding or inspecting such oil.

Disposition
of fines.

5. All fines recovered under this act shall be paid into the State treasury and placed to the credit of the State Dairy Commissioner, and shall be in addition to such other sums as may be provided for the payment of the expenses of the department of said commissioner.

An Act to authorize the abatement of nuisances in cities, and to make the cost and expense of such abatement a lien upon lands wherein such nuisance existed.

Gen. Stat., p.
790.

Approved March 24, 1881.

Grand jury
upon petition
of five free-
holders may
investigate
and make
presentment
to court of
existence of
nuisances on
lots, etc.

1. That whenever a petition, signed by at least five freeholders, residents of any city of this State, stating that a nuisance exists upon any lots or lands within or adjacent to the boundaries of any such city, by reason of stagnant water, or because such lots or lands are not filled in sufficiently to make them dry and healthy, or because buildings are in danger of falling for want of proper foundation, shall be presented to the grand jury of the county in which such city may be situate, it shall be the duty of such grand jury to investigate the matters contained in such petition forthwith, and for that purpose such grand jury shall have power to call and examine witnesses, and to view the premises whereon such nuisance is alleged to exist; and if such grand jury shall be of the opinion that a nuisance does exist, they shall forthwith make presentment to the Court of Oyer and Terminer of such county that in their judgment and opinion such nuisance does exist and should be abated.

Prosecutors
of pleas to
apply to
court for
trial of
matters
presented.

2. That as soon as said presentment shall have been made, it shall be the duty of the prosecutor of the pleas of such county to apply to said Court of Oyer and Terminer to fix a time for the trial of the matters contained in such presentment, and such time having been appointed, the said prosecutor shall serve a notice upon the owner of the premises whereon such nuisance is alleged to exist, informing such owner of the time and place when and where the truth of the matters contained in such presentment will be tried, and notifying such owners to appear and make defense; which notice shall be served personally upon such owner, if found in the State, and if not so found, then said notice shall be served in such manner as the court shall order, either by publication or personal service out of the State.

Court to
award a
venire to
summon a
jury to try
cause.

3. That said court shall also award a venire to summon a jury, as in other trials of issues in said court; and on the day fixed for trial the said matter shall be tried, unless adjourned

by order of the court, whether the owner of such premises appear or not, and such trial shall be conducted in all respects as other trials by jury in said court; and the court shall have full power and authority to make all necessary orders or rules for the speedy and expeditious determination of the matters contained in such presentment.

4. That if such jury shall determine that no nuisance exists, as set forth in such presentment, judgment shall be entered accordingly and the costs be paid by the parties petitioning, and execution may be issued therefor; but if such jury shall determine that such nuisance does exist, then the court shall give judgment against the owner of the premises whereon such nuisance is found to exist, and also that the nuisance be abated by such early day as the court shall appoint; and if it shall appear to the court, by affidavit, that such nuisance has not been abated by such day, then it shall be the duty of the clerk of the court to certify the judgment of the court to the municipal authorities of the city wherein such nuisance is found to be, and such authorities shall thereupon proceed to abate such nuisance in the most practical and economical manner.

Costs paid by petitioners if jury determine that no nuisance exists.

Judgment against owner if nuisance is found to exist.

5. That as soon as such nuisance shall have been abated, a complete statement of the cost and expenses of such abatement shall be presented to the corporate authorities of such city, and if they approve the same, such cost and expense shall thereupon become a first and paramount lien upon the lands and premises whereon such nuisance had existed, in the same manner that taxes are a lien under the charter of such city; and they shall transmit the same to the collector or receiver of the revenues of such city, who shall proceed to collect the amount of such cost and expense as taxes and assessments for improvements are collected.

Costs and expenses of abatement to be a first lien upon the lands.

6. That if such cost and expense of abatement be not paid to such collector or receiver within ninety days from the date of approval by the corporate authorities of such city, such collector or receiver shall return the same in like manner as return is made of unpaid taxes and assessments; and the corporate authorities shall thereupon direct the sale of the lands whereon such nuisance had been abated; and the clerk of such city shall thereupon proceed to advertise and sell the same, in the same manner as lands are sold under the charter of such city for non-payment of taxes and assessments; and a declaration of sale shall be issued to the purchaser thereof, as under sales for taxes; *provided*, that the owner of such premises, or any person holding any encumbrance thereon, shall have such right to redeem such premises as is provided by the charter of such city in cases of sale for non-payment of taxes and assessments.

On failure to pay, lands to be sold.

Proviso.

An Act to regulate the sale or prescription of cocaine, or of any patent or proprietary remedy containing cocaine, and prescribing penalties for the violation thereof.

P. L. 1904, p. 187.

Selling or furnishing cocaine.

Approved March 28, 1904.

Proviso.

Penalty.

1. No person shall knowingly sell, furnish or give away any cocaine, or any patent or proprietary remedy containing cocaine, except upon the prescription of a registered practicing physician, or of a dentist in his own practice, or of a veterinarian in his own practice; nor shall any such prescription be refilled; nor shall any physician or dentist prescribe cocaine, or any patent or proprietary remedy containing cocaine, for any person known to be an habitual user of cocaine; *provided*, that the provisions of this act shall not apply to persons engaged in the wholesale drug trade, regularly selling cocaine to persons engaged in the retail drug trade.

2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than one hundred dollars, or imprisonment in the county jail where said violation was committed, for a term of three months, or both, at the discretion of the court before which such offender shall be convicted.

CEMETERIES.

Cemetery Act of April 9th, 1875 (Gen. Stat., p. 349).

Supplement.

Approved March 23, 1883.

Gen. Stat., p. 353.

Powers of municipal authorities to regulate by ordinance interments, etc. Penalties.

3. That the municipal authorities of the city, town and township in which any cemetery is or shall be located, shall have the power and authority to pass, alter and repeal ordinances to regulate interments, disinterments and the manner thereof, in any cemetery in said city, town or township, and to prescribe the penalty by fine not exceeding fifty dollars in each case, or by imprisonment in the county jail not exceeding ten days in each case, or both, for any violation of any ordinance authorized by this act; and said municipal authorities or any authorized agent thereof shall have the power and authority, at all times, to enter into and upon any cemetery within the limits of said municipality, and examine into the condition of said cemetery, and whether the ordinances regulating the same are duly enforced.

4. [Procedure section. See Gen. Stat., p. 353.]

Supplement.

Approved March 25th, 1885.

Gen. Stat., p. 354.

1. That every dead human body interred in any burying ground or cemetery within the limits of the State of New Jersey shall be buried so that the top of the outside coffin shall be at least four feet below the natural surface of the ground and shall be immediately covered with at least four feet of earth, soil or sand; excepting only the bodies of infants in boxes not more than four feet in length, which shall be so interred that the top of the outside box enclosing them shall be at least three feet and six inches below the natural surface of the ground, and they shall be immediately covered with at least three feet and six inches of earth, soil or sand; *provided*, this shall not apply where bodies are placed or buried in properly-constructed private vaults, so as to prevent the escape of noxious or unhealthy gases therefrom.

Bodies to be buried certain depth.

2. That no dead human body shall be disinterred or removed from any grave, tomb or burial place within the limits of this State between the first day of May and the first day of November, except by the direction of a competent court of this State for the purpose of criminal investigation; *provided*, *however*, that such disinterment or removal may be made at any time upon a permit being given for the purpose by the local board of health existing in the locality where such body is interred or entombed.

Dead human bodies not to be disinterred within certain times.
As amended March 24, 1890.

3. That no dead human body of any person who has died of smallpox, cholera, yellow fever, ship or typhus, spotted, relapsing or scarlet fevers, or from any new disease, publicly declared by the State Board of Health or by any county board of health to be epidemic or endemic and contagious, shall be disinterred or removed from any grave, tomb, vault or place of burial within the limits of this State at any time, unless the said body was originally interred in a metallic case, hermetically sealed, and then only by the order of, and under the direction of the board of health within whose jurisdiction such body was buried; *provided*, *however*, that the provisions as to said metallic case shall not apply where said body shall have been buried or interred three years or more, and shall have died from other disease than smallpox, cholera or yellow fever; *and provided further*, that it may be lawful to remove, for reinterment, between the first day of November and the first day of April in each year, within the limits of the same cemetery, the dead body of any person that may have died from other disease than smallpox, cholera or yellow fever; *provided*, that special permit therefor is first obtained from the board of health within whose jurisdiction such body shall be buried.

Disinterment of bodies of persons dying of epidemic or contagious disease.

4. That no dead human body shall be permitted to remain longer than forty-eight hours in any receiving vault in this State, the depth of which is less than five feet below the natural surface of the ground, between the first day of May and the first day of November; *provided*, this shall not apply

May remain in vaults, etc.

Proviso.

to properly-constructed receiving vaults which prevent the escape of noxious and unhealthy gases.

Municipal authorities or board of health may enter and examine cemetery.

5. That the municipal authorities or board of health of any city, town, township or borough in this State, or their properly-authorized agent or agents, shall have the power and authority at all times to enter into and upon any cemetery or burying ground within the limits of said municipality and examine into the conditions of the same, and ascertain whether the laws regulating it are duly observed.

6. [See Supplement of April 24th, 1906, *post*.]

Penalty for violation of act.

7. That any person violating any of the foregoing provisions of this act, and any person in charge of or exercising control over any cemetery or burial ground in this State, who shall knowingly permit or suffer such violation to be done, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punishable by a fine of not exceeding three hundred dollars, or imprisonment for six months, or both, in the discretion of the court.

Proceedings when cemetery dangerous to public health.

8. That whenever any cemetery or burial ground, or part thereof, by reason of its location or the too great number of bodies interred therein, or for any other cause, is dangerous to the public health, and it is inadvisable that any further interments be made therein, any municipal authority within whose limits any such cemetery or burial ground is situated, or any State or local board of health, may file a bill in the Court of Chancery, either in the name of the State on the relation of said complainant or otherwise, asking relief in the premises, and the procedure shall be according to the rules and practice of said court; and if it shall thereupon be determined by said court that any cemetery, burial ground, or any part thereof, for any of the reasons aforesaid is dangerous to public health or that further interments therein would be inadvisable, then said court shall have the power and authority, by injunction or otherwise, according to the practice of said court, to grant such relief as to said court shall seem proper and necessary for the protection of the public health.

When costs awarded.

9. That in case said court shall determine that the complainant or complainants are not entitled to any relief in any proceeding that may be taken under section twenty-two of this act, costs shall not be awarded as of course against said complainant, but only in case it shall appear to the Chancellor that no probable cause existed for bringing such suit.

An Act relating to the establishment and enlargement of cemeteries and use of lands for cemetery purposes in cities of the first class.

Approved March 5, 1896.

P. L. 1896, p. 46.

1. No new cemetery shall hereafter be established, nor shall any cemetery now existing be enlarged or any lands not now used for cemetery purposes be used for such purposes in cities of the first class in this State, without the consent of the common council and board of health of such city, to be expressed by resolution, and the approval thereof by the mayor of such city.

Cemeteries not to be established or enlarged without consent of common council, etc.

Supplement.

Approved April 24, 1906.

P. L. 1906, p. 284.

1. It shall not be lawful to locate any new cemetery or burying-ground, or to enlarge any cemetery or burying-ground in this State without the consent and approval of the municipal authorities and board of health of the city, township, town or borough in which it is proposed to locate or enlarge said cemetery or burying-ground, upon application in writing for that purpose made; and in case of the refusal of the municipal authorities and local board of health to grant the same, then the person or persons making application as aforesaid may, within thirty days after such refusal, apply to the State Board of Health, which shall have power to reverse the decision of the local authorities and grant the application; and in case the local authorities grant the permit to locate or enlarge any cemetery or burying-ground and the same shall be deemed objectionable by the inhabitants of the city, town, township or borough where it is proposed to locate, then ten citizen freeholders thereof may, within thirty days after the granting of such permit, apply to the State Board of Health, which shall have power to reverse the decision of the local authorities and prohibit said location or enlargement; and it is hereby specially provided, that all persons making application as aforesaid for the location or enlargement of any cemetery shall accompany the same with a descriptive map of the premises they propose to occupy, a copy of which shall be also filed in the office of the State Board of Health. (a)

Municipal consent as to cemeteries.

May apply to State authorities.

Map provided.

2. All acts and parts of acts inconsistent with this act are hereby repealed, and this act shall take effect immediately. (b)

Repealer.

(a) On appeal to State Board of Health to reverse the determination of municipal bodies respecting the location of a new cemetery, the State Board is not required to examine witnesses under oath; nor is the State Board confined to the consideration of sanitary questions only. The determination of the State Board on appeal is presumed to rest upon proper grounds. *Dodd v. Francisco*, 39 Vr. 490.

If the municipal authorities consent and local board of health refuses to grant permission, application may be made to State Board to reverse action of local board. In hearing application the State Board acts judicially and persons interested have a right to be heard. *Dodd v. State Board of Health*, 38 Vr. 463; see, also, *Burdette v. Fairview*, 37 Vr. 523.

(b) Chapter 64 of the Laws of 1905 would seem to have been repealed by implication by above section.

MOSQUITOES.

An Act to provide a method for locating and destroying mosquito-breeding areas, authorizing appropriations for said purposes and providing State aid for freeing salt-marsh areas from mosquitoes.

P. L. 1905, p. 165.

Investigation of source or breeding places of mosquitoes.

Approved March 31, 1905.

1. It shall be lawful for the mayor, or executive officer, or the board of health of any city, borough, incorporated town, village or the governing body or board of health of any township or county to make request in writing to the director of the Agricultural Experiment Station in this State, or to the person appointed by said director for the purposes of this act, to investigate, or cause to be investigated, the source of breeding places of mosquitoes which may or do infest said city, borough, incorporated town, village, township or county; and it shall be the duty of such director, or the person appointed by him, as soon as may be, after such application is made, to investigate, or cause to be investigated, the source or breeding places of such mosquitoes, and he shall as soon thereafter as possible, report to the officer or body making such application, the results of the investigation made, and also the measures that should be adopted to destroy such breeding places, or render them free from future mosquito breeding.

Report.

2. If such investigation shows that the sources or breeding places of the mosquitoes complained of are wholly within the jurisdiction of the city, borough, incorporated town, village, township or county from which the application is made, a report shall be made to the officer or body requesting the investigation, and if such request does not come from a board of health, a copy shall also be forwarded to the board of health of such applying city, borough, incorporated town, village, township or county, which report shall specify in such detail as is possible such breeding places as may be abolished by such board under the powers conferred upon it by the laws relating to such boards; if the investigation shows that the mosquitoes complained of breed wholly, or in part, at a point or points without the jurisdiction of the city, borough, incorporated town, village, township or county from which the application is made, a copy of the report showing this result shall also be sent to the board or boards of health in the jurisdiction or jurisdictions where such breeding places are found, or if there be no organized board of health in any such jurisdiction, then the copy shall be sent to mayor, or executive officer of said city, borough, incorporated town, village, or the governing body of such township or county; the copy of the report above provided for, when sent to any officer, board or governing body in any jurisdiction other than the one from which the request for the investigation originated, shall be accompanied by a statement giving the origin of the request, the reasons leading to the conclusion that the breeding places for mosquitoes lying

Statement to accompany report.

within the jurisdiction to which the report is sent, are supplying specimens found in the neighboring jurisdiction, and submitting the measures that should be taken to abolish these breeding places.

3. Whenever an investigation made as aforesaid shall disclose the fact that the mosquitoes infesting the community and causing the nuisance complained of are those breeding on the salt marsh areas within the jurisdiction of any city, borough, incorporated town, village, township or county from which the application is made or adjacent thereto, and a copy of the report shall be sent to the board or boards of health of the municipality or municipalities in which the breeding places are situated, attaching statements specifying the localities affected by the marsh breeding areas, the extent of the dangerous area, the character of the work necessary to prevent further mosquito breeding and the probable cost of the work required in each municipality, it shall be lawful for the governing body of any municipality above mentioned, upon the written request of the board of health of said municipality, to appropriate, in the same manner as other appropriations are made, seventy-five per cent. of the sum required to complete the work aforesaid; whenever such appropriation is made and is available said board of health shall certify this fact to the director of the Agricultural Experiment Station, who may, out of the money appropriated by the State for this purpose, together with the appropriation of such municipality so certified as available, complete the work; *provided*, not more than five hundred dollars from said State aid appropriation shall be expended in any one municipality in any one year.

Municipalities may make appropriation to abate nuisance.

State assistance.

Proviso.

4. Whenever it appears from the report made to any officer or body making application for an investigation, that the sources or breeding places of the mosquitoes complained of are on the salt marshes, wholly or in part without the jurisdiction of the city, borough, incorporated town, village, township or county from which the application is made, it shall, nevertheless, be lawful for the governing body of any such municipality to appropriate in the same manner as other appropriations are made, such sum or sums as may be deemed necessary to assist the municipality in which the breeding places actually occur in securing the amount necessary to obtain the State aid conditioned in section three of this act; *provided*, that no matter how many municipalities contribute, the sum limited in section three shall not be exceeded in any one municipality.

Municipal assistance.

Proviso.

5. All sums contributed or appropriated under authority of this act shall be paid to the treasurer of the municipality in which the work is to be done, and the funds shall not be deemed available until the entire amount contributed or appropriated shall be actually in the hands of such treasurer; payments shall be made by such treasurer in the same manner as other bills against the municipality are paid, but no bill for

When funds available.

Payments; how made.

work done shall be paid unless it is accompanied by a certificate from the director of the Agricultural Experiment Station or the person designated by him to carry out the purposes of this act stating that the work is satisfactory and effective for the purpose intended.

State
appro-
priations.

6. The sum of two thousand five hundred dollars is hereby appropriated to the Agricultural College Experiment Station for the fiscal year ending October thirty-first, one thousand nine hundred and five, and the sum of three thousand five hundred dollars is hereby appropriated to said station for the fiscal year ending October thirty-first, one thousand nine hundred and six, to defray the cost of executing this law and of making such investigations and experiments as may be necessary to carry out its intent and purpose, and the further sum of ten thousand dollars, four thousand dollars to become available during the fiscal year ending October thirty-first, one thousand nine hundred and five, and six thousand dollars for the fiscal year ending October thirty-first, one thousand nine hundred and six, or so much thereof as is needed, is hereby appropriated to said station, to be used in carrying out the provisions for State aid.

An Act to provide for locating and abolishing mosquito-breeding salt-marsh areas within the State, for assistance in dealing with certain inland breeding places, and appropriating money to carry its provisions into effect.

P. L. 1906, p.
255.
Survey of
salt marsh
areas.

Approved April 20, 1906.

Indicate
breeding
spots on map.

Survey of
fresh-water
swamps.

Map to show
breeding
spots.

1. It shall be the duty of the director of the State Experiment Station, by himself or through an executive officer to be appointed by him to carry out the provisions of this act, to survey or cause to be surveyed all the salt-marsh areas within the State, in such order as he may deem desirable, and to such extent as he may deem necessary, and he shall prepare or cause to be prepared a map of each section so surveyed, and shall indicate thereon all the mosquito-breeding places found on every such area, together with a memorandum of the method to be adopted in dealing with such mosquito-breeding places, and the probable cost of abolishing the same.

2. It shall be the further duty of said director, in the manner above described, to survey, at the request of the board of health of any city, town, township, borough or village within the State, to such extent as may be necessary, any fresh-water swamp or other territory suspected of breeding malarial or other mosquitoes, within the jurisdiction of such board, and he shall prepare a map of such suspected area, locating upon it such mosquito-breeding places as may be discovered, and shall report upon the same as hereinafter provided in section eight of this act. Requests as hereinbefore provided for in this section may be made by any board of health within the State, upon its own motion, and must be made upon the petition, in

writing, of ten or more freeholders residing within the jurisdiction of any such board.

3. Whenever, in the course of a survey made as prescribed in section one of this act, it is found that within the limits of any city, town, township, borough or village there exist points or places where salt-marsh mosquitoes breed, it shall be the duty of the director aforesaid, through his executive officer, to notify, in writing, by personal service upon some officer or member thereof, the board of health within whose jurisdiction such breeding points or places occur, of the extent and location of such breeding places, and such notice shall be accompanied by a copy of the map prepared as prescribed in section one, and of the memorandum stating the character of the work to be done and its probable cost, also therein provided for. It shall thereupon become the duty of the said board, within twenty days from the time at which notice is served as aforesaid, to investigate the ownership, so far as ascertainable, of the territory on which the breeding places occur, and to notify the owner or owners of such lands, if they can be found or ascertained, in such manner as other notices of such boards are served, of the facts set out in the communication from the director, and of the further fact that, under chapter sixty-eight of the laws of one thousand eight hundred and eighty-seven, as amended in chapter one hundred and nineteen of the laws of one thousand nine hundred and four, any water in which mosquito larvæ breed is a nuisance and subject to abatement as such. Said notice shall further contain an order that the nuisance, consisting of mosquito-breeding pools, be abated within a period to be stated, and which shall not be more than sixty days from the date of said notice, failing which the board would proceed to abate, in accordance with the act and its amendments above cited.

Municipalities informed of mosquito breeding places.

Owners notified.

Notice to abate nuisance.

4. In case any owner of salt-marsh lands on which mosquito-breeding places occur and upon whom notice has been served as above set out, fails or neglects to comply with the order of the board within the time limited therein, it shall be the duty of said board to proceed to abate under the powers given in sections thirteen and fourteen of the act and its amendments cited in the preceding section, or, in case this is deemed inexpedient, it shall certify to the common council or other governing body of the city, town, township, borough or village the facts that such an order has been made and that it has not been complied with, and it shall request such council or other governing body to provide the money necessary to enable the board to abate such nuisance in the manner provided by law. It shall thereupon become the duty of such governing body to act upon such certificate at its next meeting and to consider the appropriation of the money necessary to abate the nuisance so certified. If it be decided that the municipality has no money available for such purpose, such decision shall be transmitted to the board of health making the certi-

If owner fails to comply, board of health to act.

As to funds.

ificate, which said board shall thereupon communicate such decision forthwith to the director of the Agricultural Experiment Station or his executive officer.

Certain amount may be set aside for abating breeding spots.

Special inspector.

5. If, in the judgment of the director aforesaid, public interests will be served thereby, he may set aside out of the moneys appropriated by this act such an amount as may be necessary to abate the nuisance found existing and to abolish the mosquito-breeding places found in the municipality which has declared itself without funds available as prescribed in the preceding section. Notice that such amount has been set aside as above described shall be given to the board of health within whose jurisdiction such mosquito-breeding places are situated, and said board shall thereupon appoint some person designated by said director or his executive officer a special inspector of said board for the sole purpose of acting in its behalf in abating the nuisance found to be existing, and all acts and work done to abate such nuisances and to abolish such breeding places shall be done in the name of and on behalf of such board of health.

Municipalities may assist in abating breeding spots.

Preference.

6. If in the proceeding taken under section four of this act the common council or other governing body of any municipality appropriate to the extent of fifty per centum or more of the money required to abate the nuisance and to abolish the mosquito-breeding places within its jurisdiction, it shall become the duty of said director of the Agricultural Experiment Station to set aside, out of the moneys herein appropriated such sum as may be necessary to complete the work, and in all cases preference shall be given, in the assignment of moneys herein appropriated, to those municipalities that contribute to the work and in the order of the percentage which they contribute; those contributing the highest percentage to be in all cases preferred in order.

How work done.

Payments.

7. In all cases where a municipality contributes fifty per centum or more of the estimated cost of abolishing the breeding places for salt-marsh mosquitoes within its jurisdiction, the work may be done by the municipality as other work is done under its direction, and the amount set aside as provided in section six may be paid to the treasurer or other disbursing officer of such municipality for use in completing the work; but no payment shall be made to such treasurer or other disbursing officer until the amount appropriated by the municipality has been actually expended, nor until a certificate has been filed by the director or his executive officer stating that the work already done is satisfactory and sufficient to obtain the desired result, and that the arrangements made for its completion are proper and can be carried out for the sum awarded.

Species of mosquitoes shown.

8. In all investigations made under section two of this act the report to be made to the board of health requesting the survey shall state what mosquitoes were found in the territory complained of, whether they are local breeders or migrants

from other points, and, in the case of migrants, their probable source, whether the territory in question is dangerous or a nuisance because of mosquito breeding, the character of the work necessary to abate such nuisance and abolish the breeding places, and the probable cost of the work. Said board of health must then proceed to abolish the breeding places found under the general powers of such boards, but if it shall appear that the necessary cost of the work shall equal or exceed the value of the land without increasing its taxable value, such board may apply to the director aforesaid, who may, if he deems the matter of sufficient public interest, contribute to the cost of the necessary work, provided that not more than fifty per centum of the amount shall be contributed in any case, and not more than five hundred dollars in any one municipality.

Local boards
may be
assisted by
State.

9. All moneys contributed or set aside out of the amount appropriated in this act by the director of the Agricultural Experiment Station in accordance with its provisions shall be paid out by the Comptroller of the State upon the certificate of said director that all the conditions and requirements of this act have been complied with, and in the case provided for in section five payments shall be made to the contractor upon a statement by the person in charge of the work, as therein prescribed, attested by said director, showing the amount due and that the work has been completed in accordance with the specifications of his contract.

Payments,
how made.

10. For the purpose of carrying into effect the provisions of this act, the said director of the State Agricultural Experiment Station shall have power to expend such amount of money, annually, as may be appropriated by the Legislature; *provided*, that the aggregate sum appropriated for the purposes of this act shall not exceed three hundred and fifty thousand dollars. The Comptroller of the State shall draw his warrant in payment of all bills approved by the director of the State Experiment Station, and the Treasurer of the State shall pay all warrants so drawn to the extent of the amount appropriated by the Legislature.

Appropriation.

Proviso.

11. This act shall take effect November first, one thousand nine hundred and six.

Act effective.

HOSPITALS AND DISPENSARIES.

An Act to authorize cities of the second class to erect and make additions to hospitals for contagious diseases, and to provide for the maintenance thereof.

Approved March 5, 1895.

Gen. Stat., p.
1693.

1. That the common council or other legislative body of any city of the second class, whenever it is by it deemed necessary, may purchase land in said city and erect a building or buildings thereon to be used for a hospital for contagious diseases; the

Governing
body may
provide for
erection of
hospital.

plan or plans for such building or buildings and specifications thereof shall, before the same are adopted, or the building or buildings erected, be approved by the mayor, the common council or other legislative body, and the board of health of such city; and for the purpose of obtaining means for erecting said building or buildings and for purchasing the necessary land, the said common council or other legislative body may issue and sell bonds of said city to an amount not exceeding twenty-five thousand dollars, said bonds to bear interest at a rate not exceeding five per centum per annum, and the principal to be paid within ten years and the proceeds applied for the purposes aforesaid.

Board of health shall conduct hospital.

And certify to governing body sum necessary to maintain it.

2. That after the said building or buildings shall be completed, the same shall be in charge of and under the direction of the local board of health of said city, and for the purposes of conducting the same the board of health of said city shall annually certify to the common council or legislative body having power to pass the annual tax ordinance of such city the sum considered necessary to maintain the said hospital for the ensuing year, and the said common council or other board shall incorporate in the annual tax ordinance the above amount or what part of it may to them seem best, and the treasurer of said city shall pay such amount to the local board of health, to be by it used for the payment of the current expenses of maintaining and conducting such hospital and the care and maintenance of the patients confined therein; and the said common council or other legislative body may, whenever considered necessary by the local board of health, pay over to such board such additional sum or sums as shall be required to pay the current expenses of such hospital, such additional sum or sums to be borrowed and inserted in the next tax ordinance.

An Act to authorize townships of this State * * * to acquire and own lands for hospital purposes, etc.

Approved March 26, 1895.

Gen. Stat., p. 1694.
Committee may acquire lands and erect hospitals.

May make temporary loans and provide for payment thereof.

1. That whenever the township committee of any township of this State shall deem it advisable to provide a hospital for persons having contagious diseases, and for other hospital purposes, it shall be lawful for any such township committee to acquire and hold lands in the corporate name of such township, whether such lands are situate in said township or out of it, for hospital purposes, and to erect and maintain thereon a hospital, and to pay for the same from any money or funds of such township not otherwise appropriated, or which may be available for the purpose, or to obtain temporary loans for the purpose and to provide for payment of such loans in the succeeding tax levy by taxes to be assessed and collected in the same manner as other taxes are assessed and collected for such township, and to convey such lands so acquired, or any portion

thereof, when not needed for hospital purposes; but when such lands are situate out of the limits of any such township as acquires title to the lands, then before using such lands for hospital purposes for persons having contagious diseases, there shall be obtained the consent of either the board of health or township committee of the township within the limits of which such lands lie and such hospital is erected, that the same may be used for the purposes aforesaid; but the total expenditure for land and buildings for hospital purposes shall not exceed one-tenth of one per centum of the total sum of assessments for one year for the purpose of taxation in such townships, as shown by the duplicate or other records of assessments for the previous year.

When consent of another township shall be had.

Total expenditure limited.

2. That it shall be lawful for any two or more townships either with each other, or one or more townships with one or more other municipal corporations, excepting cities, to jointly exercise all the power and authority given to separate townships in the first section of this act, and such townships are hereby authorized to make all necessary agreements for the purpose of so doing, and for doing all that any township is authorized to do separately by said first section of this act, including the power and authority to acquire and convey, as aforesaid, land inside or outside of the limits of any township.

Two or more townships may unite.

3. That any hospital or hospitals which may be provided under the provisions of this act, shall be in charge and under the control of the township committee of the township which acquires land and provides hospital buildings, as aforesaid; but when two or more townships, or one or more townships with one or more other municipal corporations, jointly provide a hospital, as any township or townships are authorized to do in section two of this act, then such hospital shall be in charge and under control of the township committee of the two or more townships, or of the township committees of one or more townships exercised jointly with the municipal authorities of such municipal corporation or municipal corporations, as the case may be.

How control shall be exercised.

An Act to authorize and provide for the establishment and maintenance of hospitals for contagious diseases for cities in this State.

Approved March 23, 1900.

1. Whenever the board of health of any city of this State shall, by resolution, passed by the votes of a majority of the members thereof, declare that it is necessary to establish and maintain in and for such city a hospital which shall be devoted exclusively to the treatment and relief of persons suffering from contagious and infectious diseases, and setting forth the estimated cost thereof, a copy of the said resolution, certified under the hands of the president or chairman and secretary or clerk of such board or body, shall be forthwith transmitted to the

P. L. 1900, p. 321. Establishment of hospital for contagious diseases.

Appropriation.

common council, board of aldermen, or other board having charge and control of the finances of such city, and thereupon such financial board, by resolution, shall make an appropriation or appropriations as hereinafter mentioned; that is to say: in all cities having by the census last preceding the adoption of such resolution a population of not more than fifteen thousand, a sum not exceeding ten thousand dollars; in all cities having by such census a population exceeding fifteen thousand and not exceeding thirty thousand, a sum not exceeding the sum of twenty thousand dollars; in all cities having by such census a population exceeding thirty thousand and not exceeding one hundred thousand, a sum not exceeding the sum of fifty thousand dollars, and in all cities having by such census a population exceeding one hundred thousand, a sum not exceeding the sum of one hundred thousand dollars, nor shall the minimum of such appropriations be less than one-fourth of the said amounts in each case respectively; for the purchase of lands, if required, and the erection and furnishing of a suitable building or buildings in and for such city by such board of health, and upon the adoption of such resolution by such financial

Bonds issued.

board, such board shall from time to time issue bonds in the corporate name of such city for the amount so appropriated, which bonds shall be of such denomination as such financial board shall determine, and shall be made payable in not less than twenty nor more than thirty years; they shall bear interest at a rate not greater than four per centum per annum, which shall be payable semi-annually and may be registered or coupon bonds, or may be registered and coupon bonds combined, at the option of said financial board; they shall be sold at public or private sale, but not for less than par and accrued interest, and there shall be raised by tax in each year the interest on the whole amount of the bonds so issued, together with at least two per centum per annum of the principal of such bonds for a sinking fund, to be paid to the commissioners of the sinking fund of such city for the purpose of meeting the said bonds when they shall become due; there shall further be raised in each annual tax levy in any city for which such hospital is established an amount sufficient to provide for the support and maintenance of such hospital in that year; *provided, however,* that no city shall issue bonds under the provisions of this act where the amount of such bonds together with all other funded and floating indebtedness of such city then outstanding after deducting the available sinking funds thereof, shall exceed ten per centum of the valuation of the real and personal property of said city as assessed for municipal purposes for the year next prior to the incurring of such indebtedness.

Proviso.

Amount of bonds.

2. No city shall issue under the provisions of this act bonds in any amount exceeding in the aggregate the sum above limited by the population thereof; and the proceeds of such bonds, including the premiums, if any, shall be used only for the purposes of such hospital.

3. The selection of a site for the said hospital building, the making and the approval of plans for the same, and the control and management of the said building, shall be vested in the board of health of the city for which the same is erected; but the title to the property purchased for such hospital shall be taken in the corporate name of the city for which the same is purchased, and the erection of the said hospital shall be under the control and direction of the common council, board of aldermen or other board having charge and control of the finances of such city, and it shall be the duty of such financial board to pay, out of the money raised for that purpose, the cost of such hospital site, and the cost of the erection and furnishing of such hospital; the board of health of any such city may, with the concurrence of the common council, board of aldermen, or other board having charge or control of the finances of such city, select and use as a site for such hospital, any property owned by such city wherever situated, the selection of such site by such board of health, and the concurrence by the common council, board of aldermen, or other board having the control of the finances of such city, to be manifested by resolution; the said hospital shall be used and devoted exclusively to and for the treatment of persons in such city suffering from contagious or infectious diseases, whether such persons shall or may be poor and indigent persons, or those who may be able to pay for the medical care, attendance and treatment which they may receive in such hospital, and for the disinfecting of clothing, bedding or other materials in which the germs of disease may or shall exist; *provided, however,* that persons suffering from contagious or infectious diseases living out of such city and in the county in which the same is situated may be sent for and received for treatment in such hospital by the board of health of such city in its discretion; the said board shall make reasonable charges against all persons received into such hospital for treatment who may be able to pay the same, and where poor and indigent persons are received into such hospital for treatment, from the corporate authorities of any of the municipalities of the county in which such city is situated, they shall be received and treated at the expense of such corporate authorities, who shall pay for such patients the same rates that are charged by such board of health against patients who are or may be able to pay for the treatment which they receive in such hospital; all sums received for patients treated in such hospital shall be used and applied for the maintenance and support of the same.

4. All acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

Site, plans, management.

Title in corporate name.

Use of hospital.

Proviso.

Reasonable charges.

Repealer.

A Supplement to the act entitled "An act to authorize and provide for the establishment and maintenance of hospitals for contagious diseases for cities in this State," approved March twenty-third, one thousand nine hundred.

P. L. 1902, p. 559.

Hospital without city.

Proviso.

Acquire lands.

Management.

Approved April 3, 1902.

1. In selecting a site for a hospital, to be erected under the provisions of the act to which this act is a supplement, the board of health of any city of this State may choose a site outside of the limits of the city within which it has jurisdiction; *provided, however,* that before any hospital building shall be erected on such site, the selection of the site, and the erection thereon of a hospital for the treatment and relief of persons suffering from contagious and infectious diseases, shall be consented to by the governing body of the township, city, borough or municipality within which the proposed site is located.

2. The common council, board of aldermen or other board having charge and control of the finances of such city, may acquire lands for such hospital purposes as aforesaid, by gift or purchase.

3. The board of health of every city which shall have selected a hospital site outside of the limits of the city within which such board has jurisdiction, shall have the same power over and control and management of the hospital and of the hospital buildings erected upon such site, as if the hospital were located within the limits of such city.

An Act to authorize two or more municipalities in this State to jointly establish and maintain hospitals for contagious and infectious diseases.

P. L. 1902, p. 362.

Municipalities may join in maintaining hospital.

Proviso.

May contract with other municipalities to use same.

Approved April 3, 1902.

1. It shall be lawful for any two or more municipalities in this State, without regard to their form of incorporation, to jointly provide for and cause to be established and maintained, a joint hospital or hospitals for the treatment of persons suffering from contagious or infectious diseases in the manner herein provided; and to that end the boards of health of any two or more municipalities in this State may unite and jointly cause to be established and maintained a hospital or hospitals which shall be devoted exclusively to the treatment and relief of persons suffering from contagious or infectious diseases within the limits of the municipalities in and for which said boards of health are established; *provided,* the provisions of this act shall have been adopted by the several municipalities by the passage of a resolution by a majority of the common council or other governing body of each such municipality, which resolution shall limit the cost of such hospital and of the land and equipment and furnishing therefor.

2. It shall be lawful for the boards of health of any two or more of such municipalities adopting the provisions hereof to thereafter respectively authorize by a resolution duly passed by

each of such boards of health, the making and entering into by and upon behalf of such boards of health, respectively, of a joint contract or contracts in writing (for which authority is hereby given) with such other board or boards of health of such other municipality or municipalities adopting the provisions hereof as may then or thereafter desire to unite for the joint establishment and maintenance, or either, of a hospital or hospitals for the relief of persons suffering from contagious or infectious diseases at the joint cost and expense of such contracting or associated boards of health as may be provided and specified in said contract.

3. After the execution by two or more boards of health in this State of a contract pursuant to the provisions hereof, it shall be lawful for the respective boards of health of the municipalities so adopting the provisions hereof, and it shall be their duty to meet in joint meeting at such time and place as may be fixed, in writing, by a majority of the presiding officers of such boards of health; each of such boards of health shall be entitled to two representatives at the joint meetings, one of whom shall be the presiding officer of the boards of health, and the other (whose term shall be for two years) to be elected by the several boards of health respectively from among their own number, and the said representatives to have full power and authority to act in joint meeting for and on behalf of the boards of health which they represent for the carrying into effect of all the provisions of this act; and the representatives of such contracting boards of health shall meet at the time and place so to be designated as aforesaid and shall proceed at once to organize as a joint meeting by electing by ballot one of their number a permanent chairman of such joint meeting; and said joint meeting shall immediately after selecting a permanent chairman and at the same meeting, proceed to elect a secretary and a treasurer from among their own number, and at such meeting, or any subsequent meeting, shall have full power and authority to appoint, by a majority vote, such other servants and agents and fix their compensation as such joint meeting shall deem advisable; such joint meeting shall continue to exist during the establishment and maintenance of such hospital or hospitals and shall make rules for the government of themselves, and shall be entrusted with the establishment of such hospital or hospitals and the government thereof, and shall have full power and authority to make rules and regulations regarding the maintenance of such hospital or hospitals so to be established in conformity with the provisions hereof, and shall have full power and authority to make and enter into in the names and on behalf of the said contracting boards of health, a contract or contracts for the purchase, erection and construction of a hospital building or buildings, the purchase of necessary equipment and supplies therefor, the renting and leasing of lands and real estate and the acquiring by purchase or otherwise (as hereinafter stated), of such lands and real estate as they may deem necessary and proper for the site or sites for such hospital or

Joint
meetings of
board of
health.

Organiza-
tion.

Appoint
assistants.

Rules and
regulations.

Contract for
buildings
and supplies.

hospitals, the title to said land and real estate so purchased or acquired, to be taken in the joint names of all the municipalities adopting the provisions hereof whose boards of health have entered into such joint contract.

Acquiring
property by
condemna-
tion.

4. In case no agreement for securing by purchase or otherwise, the lands and real estate necessary for the site or sites for such hospital or hospitals can be made between such joint meeting and the owner or owners of such land and real estate, the said joint meeting shall certify the facts in writing together with a description of the lands and real estate which the said joint meeting deems necessary for the purpose of a site or sites as aforesaid to the common councils or other governing bodies of the several municipalities adopting the provisions hereof and whose boards of health have contracted as aforesaid, and it shall thereupon be the duty of such common councils or other governing bodies to take the necessary legal proceedings in the joint names of such municipalities, or a majority of them, for acquiring, by condemnation, the said lands and real estate, in the manner provided in a certain act entitled "An act to regulate the ascertainment and payment of compensation for property condemned or taken for public use [Revision of 1900]," approved March twentieth, one thousand nine hundred, and any supplements thereto; and the title to said lands and real estate whether acquired by purchase or condemnation, shall be taken in the joint names of all of the municipalities whose boards of health have contracted as aforesaid, whether said condemnation proceedings shall have been taken in the joint names of all or a majority of said municipalities.

Defraying
expenses.

5. For the purpose of defraying the cost and expense of the purchase of lands and real estate for such site or sites and the erection, construction and establishment of said hospital building or buildings, after the expense thereof shall have been ascertained by said joint meeting and certified to the respective governing bodies of such municipalities, it shall be the duty of such governing body to borrow money for defraying the expenses thereof, and secure the payment of the same by notes or other temporary obligations of such municipalities, which notes and obligations may be renewed from time to time until the work of such erection, construction and establishment of such hospital building or buildings be completed, whereupon after the entire cost and expense thereof and of the equipment and furnishing of such hospital building or buildings shall have been finally determined by such joint meeting and certified to said governing bodies, as aforesaid, it shall be the duty of each of such governing bodies, and they are hereby authorized and empowered to issue, in the name of each of such municipalities, bonds for its share of the expense of such erection, construction, establishment and equipment, the same to be issued for a term not exceeding thirty years, to bear interest at a rate not to exceed five per centum per annum, and to be signed by the mayor or acting mayor, or chairman, or president of the governing

Temporary
obligations.

Bonds issue.

body or board, or chief officer of such municipality, and the clerk of the same, as may be directed, by resolution of such governing body; and the proportion of the expense of the acquisition of such lands and real estate, and of the erection, construction, establishment and equipment of such hospital building or buildings shall be divided between the several municipalities establishing and maintaining such hospital according to the population of each at the next preceding national or state census, and shall thereafter be apportioned in like manner as each succeeding national or state census shall be made.

6. It shall be lawful for the governing body or board having control of the finances of each municipality as aforesaid, pursuant to the terms of this act, and they are hereby authorized and directed to raise by tax in each year, as other moneys are raised in such municipality, such sum of money as may be necessary to pay the principal and interest on the notes, bonds and temporary obligations issued as aforesaid, and in addition thereto, its share of the cost and expense of the maintenance of such hospital building or buildings, the latter to be certified to the said governing body by the said board of health thereof and the amount thereof to be fixed and determined in accordance with the provisions of the joint contract above referred to and to which said board of health shall be a party; the said moneys so to be raised to be in addition to any other moneys raised for health purposes in pursuance of any other statute.

Money raised
by taxation
to pay bonds,
etc.

7. The selection of a site or sites for the said hospital building or buildings, the making and approval of plans for the same and the control and government of the said building or buildings and their surroundings, shall be vested in the said joint meeting and the said site or sites shall be within the limits of one or more of the municipalities whose board of health has entered into said joint contract, and no consent for the erection and use of such hospital building or buildings shall be required from any governing body other than the passage of the said resolution adopting the provisions of this act as hereinbefore provided; and it shall be lawful for any of such contracting boards of health and the officers, agents and employes thereof and of the joint meeting, to use the streets of any intervening municipality in conveying patients to the said hospital building or buildings.

Site and
plans of
hospital.

8. All moneys raised by taxation or upon notes, temporary obligations or bonds, for the purpose of this act, shall be placed to the credit of the local board of health, and shall by said board of health be paid over to the treasurer of the joint meeting; all moneys expended by said joint meeting shall be so expended by a vote of a majority thereof, and shall be by order in writing under the hands of the president and treasurer; the treasurer of said joint meeting shall give bond to all of the contracting boards of health in their joint names, conditioned for the faithful performance of his duties as such treasurer in such sum as may be agreed upon in and by said joint contract.

Money placed
to credit of
board of
health.

"Joint meeting" construed.

9. The words, "joint meeting," as used in this act, shall be construed to mean the meeting or assembly of the representatives of the several boards of health having authority to make and enter into a contract for the establishment and maintenance of a joint hospital or hospitals for the treatment and relief of persons suffering from contagious and infectious diseases, pursuant to and by authority of the provisions of this act.

Repealer.

10. All acts and parts of acts, general, local or special, contrary to the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

An Act concerning the establishment and maintenance of isolation hospitals in connection with poor houses.

P. L. 1902, p. 625.

Maintain isolation hospital with poor house.

Approved April 8, 1902.

1. The board of trustees or any governing body having control of the maintenance and management of any poor house in this State, shall have the power to establish and maintain, in connection with any poor house in their charge and on the lands belonging to said poor house, an isolation hospital for the reception and treatment of persons suffering from any contagious or infectious diseases and to maintain the same for such purposes, and the said board of trustees is hereby authorized, upon the request of the local board of health of any municipality under its jurisdiction, to remove and transport any person suffering from any contagious or infectious disease, from such municipality, to its hospital, across, into or through the territory of any other municipality; and said board of trustees, or any governing body aforesaid, of any poor house, may have the power to appoint and employ such officers and employes as may be necessary to carry out the purposes of this act, and may provide for their compensation; *provided, however*, that nothing herein contained shall be construed to authorize or allow the erection of any hospital by any municipality or its board of health, or by any of its boards or agents, outside of its own boundaries or corporate limits, except under the restrictions and limitations now fixed by law.

Proviso.

Appropriation.

2. The board of trustees, or any governing body of any poor house in this State, shall appropriate such sums of money as may be necessary for the establishment of any pest house or hospital as mentioned in section one of this act, and shall annually, at the same time as the poor house appropriations are made, appropriate such sums of money as may be necessary for the proper maintenance of a pest house or hospital, and that the sums of money so appropriated shall be added to and made a part of the annual appropriations made by them for the maintenance of the poor house under their control and shall be assessed and collected in the same way and manner as the annual appropriations for any poor house aforesaid.

An Act to authorize cities in this State to construct hospital buildings and to purchase land therefor.

Approved April 7, 1903.

P. L. 1903, p. 208.

1. Whenever the municipal board, body or authority having charge and control of the finances in any city of this State shall determine that new or additional hospital accommodations are required in such city, it shall be lawful for the said board, body or authority to issue bonds, either registered or coupon, not exceeding an amount to be computed at the rate of three mills upon each dollar of valuation of real and personal property, as last assessed in said city prior to the issue of said bonds, and to sell the same to raise money to pay for the erection and construction and furnishing of new or additional hospital building or buildings and to purchase the lands necessary for the same.

Secure necessary land and buildings by bond issue.

2. The issue of bonds under the provisions of this act shall be exempt from taxation, and made payable at periods not exceeding thirty years from the date of issuing the same, and shall draw such rate of interest, not exceeding five per centum per annum, and be in such sum as the board, body or authority having charge and control of the finances of said city shall determine; these bonds shall be executed under the corporate seal of said city, and the signature of the mayor and comptroller or other financial officer shall be affixed thereto, and may be either registered or coupon bonds, as the said board may direct; *provided*, that in order to redeem the bonds ordered under the provisions of this act at maturity it shall be the duty of the said board, body or authority having charge and control of the finances of such city to establish a sinking fund, which shall be created by a special tax of not less than two per centum upon the issue herein provided for, to be annually levied and collected as other taxes in said city are now or may hereafter be levied and collected.

Character of bonds.

Proviso.

Sinking fund.

3. The interest on the said bonds hereby authorized to be issued from time to time shall be raised and paid by a special tax or appropriation, to be annually levied and collected as other taxes in such city are now or may hereafter be levied and collected; and the whole of each year's interest shall be so levied, raised and collected and paid within each year.

Annual interest.

4. The said board, body or authority having charge or control of the finances of said city may dispose of the bonds hereby authorized at public or private sale, but in no case for less than par; all of the moneys received from the sale of the said bonds shall be applied and used for the purposes of this act and for no other purpose.

Proceeds of bonds.

5. The lands to be purchased and the buildings to be erected pursuant to this act shall be purchased, erected and furnished by the board, body or authority in which is vested by law the control of hospitals in such city, and the money arising from the sale of the bonds hereinbefore authorized shall be placed to the credit of such board, body or authority, to be expended for

Charge of buildings.

Work done
by contract.

the purpose aforesaid, and all work and labor done and materials furnished in the erection and furnishing of the said building or buildings shall be done and furnished by contract, which contract shall be awarded upon at least two weeks' advertisement in two newspapers circulating within the county in which said hospital building shall be erected to the lowest responsible bidder or bidders for the same; the said contract shall be awarded by the said board, body or authority having charge of hospitals in such city, with the concurrence of the mayor of said city and of the board, body or authority in such city having charge and control of the finances of said city.

An Act to authorize boards of chosen freeholders of counties of this State to acquire lands and erect and maintain hospitals for contagious diseases, and to provide for their control and management.

Approved April 8, 1903.

P. L. 1903, p.
238.

County hos-
pitals for
contagious
diseases.

Proviso.

Bond issue
to secure
funds.

Sinking fund.

Managers—
appoint-
ment, term,
etc.

1. It shall be lawful for the board of chosen freeholders of any county of this State, whenever in its judgment the public need requires it, to acquire land, by purchase, condemnation, gift or otherwise, anywhere in said county, and to erect thereon a suitable building or buildings to be used for a hospital for contagious or infectious diseases, and to furnish and maintain the same; *provided, however*, that no such building shall be erected or located within less than two hundred and fifty feet of any public highway, or of any dwelling-house or other inhabited building.

2. For the purpose of obtaining means for acquiring the necessary land and the erection thereon of such hospital building or buildings, and the furnishing thereof, it shall be lawful for the board of chosen freeholders of any such county to issue and sell the bonds of said county to an amount not exceeding one-tenth of one per centum of the ratables of said county; said bonds shall bear interest at a rate not exceeding four per centum per annum, and the principal thereof shall be payable at a time not exceeding forty years from their date, and such board of chosen freeholders shall establish a sinking fund, to be raised by taxation from year to year, sufficient to pay off and discharge said bonds at their maturity, and shall also include in the annual county tax levy a sum sufficient to pay the interest thereon.

3. When such hospital has been built, and is ready for occupancy, the director of the board of chosen freeholders of the county in which it is located shall, with the consent and approval of said board, appoint a board of managers of said hospital, which board shall consist of six members, residents of the said county, three of whom shall be selected from the members of the several boards of health in said county, and three shall be physicians; not more than three members of any such board shall belong to the same political party; two of the persons first appointed as herein provided shall be appointed to serve for three

years, two shall be appointed to serve for two years, and two shall be appointed to serve for one year, from the date of their appointments; and thereafter the members of said board of managers appointed each year in the manner herein provided shall serve for the term of three years; the members of said board of managers shall serve without compensation; any vacancy in said board arising from any cause, except expiration of term of office, shall be filled in the manner herein provided for original appointments, for the unexpired term only; said board of managers shall have the control and government of such hospital, and the care and custody of such hospital building or buildings; it may appoint and remove at pleasure a superintendent or warden thereof, and such other officers or employes as it may deem necessary, and fix their compensation; it may adopt and establish suitable by-laws with respect to the terms of admission, support and discharge of patients, and such rules and regulations as it shall deem necessary for the proper conduct and government of said hospital.

Superintendent and employes.

Rules.

4. The board of managers of any such hospital shall also have power, and it shall be its duty, through its employes, to send for and convey to it any person or persons anywhere in said county afflicted with any contagious or infectious disease, or showing pronounced symptoms thereof, whenever the disease is of such character, or the residential conditions surrounding the person afflicted therewith are such, that the removal of such person to the hospital is necessary to prevent contagion or infection, under such suitable regulations as it may prescribe, with the view to prevent the spread of disease.

Removal of persons to hospital.

5. Any hospital erected and maintained under this act shall be used and devoted exclusively for and to the care and treatment of all persons in the county in which it is located who are afflicted with contagious or infectious disease, whether such persons be indigent or able to pay for the medical care, attendance and treatment which they may receive therein; *provided, however,* the said board of managers may make reasonable charges for the care and treatment of all persons received into such hospital who may be able to pay for the same, and any moneys received therefor shall be expended under the direction of said board towards the support of said hospital.

Use of hospital.

Proviso.

6. All expenses and charges incurred in conducting and maintaining any such hospital, and in keeping the said building or buildings in repair, shall be paid by the county collector, from funds raised or to be raised, as far as necessary by taxation, as other county expenses are raised and paid.

Expenses.

7. All acts and parts of acts inconsistent with this act are hereby repealed, and this act shall take effect immediately.

Repealer.

An Act to regulate the location of pest-houses, crematories and other objectionable structures.

Gen. Stat., p.
2257.

Passed June 13, 1895.

Unlawful to
locate, erect,
etc., pest-
house, cre-
matory, etc.,
without con-
sent of mu-
nicipalities.

1. That it shall not be lawful for any person or corporation, or for any municipal corporation, to locate, erect, build or establish or maintain, either temporarily or permanently, any pest-house or hospital or building for the treatment of contagious diseases, or for the reception of persons suffering from any contagious or infectious disease, or any crematory or building or receptacle for the collection or treatment or disposal of garbage, house waste or other refuse matter, within any city, town, township, borough or other municipal corporation of this State, without first obtaining the consent thereto of the governing body of such city, town, township, borough or other municipal corporation within the territorial limits of which it is proposed to locate or maintain any such structure; which consent may be given by resolution and upon such terms and conditions as may be embraced in such resolution. (a)

An Act to authorize cities of the first class to establish and maintain dispensaries for the free distribution of medicines among the poor of the city, and to raise money for such purpose.

P. L. 1902, p.
634.
Public dis-
pensary.

Approved April 9, 1902.

Appropriation.

1. It shall be lawful for the municipal board or body having charge of the finances of any city of the first class in this State, in their discretion, by resolution, approved by the mayor, to appropriate and set aside annually to the credit of the board or body having charge of the public health, or performing the functions of a board of health of said city a sum of money, not exceeding ten thousand dollars, to be used by the said board or body for the establishment and maintenance of medical dispensaries for the free distribution of medicines among the poor of any such city; said sum of money so appropriated as aforesaid shall be annually levied and collected in the same manner as other taxes are levied and collected in said city.

Issue temporary bonds.

2. The said board having charge and control of the finances of any such city is hereby authorized to raise the said sum of money so appropriated as aforesaid, for the first year after the passage of this act or after the establishment of such dispensaries, by issuing and selling temporary loan bonds in the name and upon the credit of the city, and to put the amount of the interest and principal of said temporary loan bonds into the next tax levy thereafter made in such city, and to levy and collect the said amount in the same manner as other taxes are levied and collected in any such city.

Location of
dispensaries.

3. It shall be the duty of the board or body having charge of the public health of any such city, provided the municipal

(a) See *Conover v. Long Branch*, 36 Vr. 167.

board or body having charge of the finances shall appropriate moneys as provided in the first section of this act, to establish, in suitable locations in such city, dispensaries for the free distribution of medicines among the poor, authorized by this act, and for that purpose to procure suitable rooms or places where medicines and medical attendance can be given to the poor of such city; and said board or body is hereby empowered to pass acts and alter and amend ordinances, and make rules and regulations for the proper conduct and management of such dispensaries, and to appoint for that purpose any and all necessary officers or employes and to fix their salaries and terms of office, and to provide medicines and medical attendance, and, in general, to supervise and direct the affairs of such dispensaries so established; *provided*, the expense of the same shall not exceed the said sum of ten thousand dollars in any one year.

Rules and regulations.

Proviso.

4. Said board or body having charge of said dispensaries shall annually make report of their transactions and accounts and the state and condition of such dispensaries to the municipal board having charge and control of the finances of such city.

Annual report.

Supplement.

Approved May 17, 1906.

P. L. 1906, p. 535.
Visiting nurses.

1. The board or body having charge of the public health in any city of the first class may, from time to time, appoint and designate nurses who shall be regularly graduated from a recognized training school of nurses to act as nurses, who shall be assigned to the dispensary or dispensaries created by virtue of the act to which this is a supplement, to render such services as may be required of them from time to time in attendance upon the sick poor of such cities.

2. The salaries of such nurses shall be fixed by the said board of health, but in no event shall exceed the sum of seventy-five dollars (\$75.00) per month, and such salaries shall be chargeable to the appropriation provided for under and by virtue of the act to which this is a supplement.

Salaries.

3. All acts and parts of acts inconsistent herewith are hereby repealed.

Repealer.

CONTAGIOUS DISEASES OF ANIMALS.

An act to prevent the spread of contagious diseases amongst cattle and stock.

Approved March 14, 1861.

Gen. Stat., p. 48.
Powers and duties of town committee to prevent the spread of disease.

1. The town committees of each township in this State, upon notice of the existence of any disease amongst cattle or stock in their townships, supposed to be contagious, be authorized and required to personally examine the cases, and if the symptoms which characterize contagious diseases are exhibited they shall cause all such sick animals to be immediately removed and kept separate and apart from all other cattle or stock, and the

remaining cattle or stock of said owner or owners shall be kept isolated from the sick ones and from all other cattle or stock; and both they and the sick animals shall be kept distant at least five hundred feet from every public highway or other road, and the same distance from the premises of any and all neighbors; and if any shall die of any contagious disease or shall be killed while so diseased the same shall be buried as soon as possible at the nearest convenient place, at least five hundred feet distant from any public highway or other road and the same distance from the premises of any and all neighbors, and not less than four feet below the surface of the ground; *provided*, that in case the owner or owners of such cattle or stock are not in the possession of such premises as will enable them to provide such suitable and safe place of isolation or burial, the town committee are hereby authorized and empowered to assign a place on any premises adjoining or near thereto, with power to compensate the owner of such premises for the use of the same.

Proviso.

Cattle that have been sick not to mingle with other cattle without permit.

2. No cattle or stock that have been sick and are supposed to have recovered, or which have been isolated and separated by order of the said town committee, shall be removed or permitted to mingle with other cattle or stock until the said town committee has given their permit.

3. This section has been eliminated, as it is apparently incomplete and provides no penalty.

Town committee may prevent importation of cattle.

4. That the said town committee be authorized to prohibit the importation or passage of cattle from other places into or through their respective townships, and any person who shall import or drive any cattle into or through any township after the same shall have been publicly prohibited by the said town committee, shall pay a fine of one hundred dollars for every bull, ox, steer, cow, heifer or calf so driven into a township, and any person who shall interfere with or prevent the action of any town committee in conformity with the provisions of this act shall pay a fine of one hundred dollars for each and every offense, and any person who shall disregard the provisions of section three shall pay a fine of five hundred dollars for each offense.

Penalty for selling diseased cattle.

5. Any person who shall dispose of any cattle or stock, knowing or having good reason to suppose it to be the subject of any contagious disease, shall pay a fine of one hundred dollars for any such animal sold within the township, or one hundred dollars if sold and taken out of the township where the seller resides; and during the prevalence of any contagious disease amongst cattle or other stock, said township committee shall publish notice of the existence of such disease, and of the penalties prescribed in this act, by at least four notices in one or more of the newspapers published in the county and by posting printed notices thereof at the principal post-offices and public places in their township; and the fines and penalties named and provided for in this act shall be sued for by said town committees in an action of debt in any court of competent jurisdiction.

tion, for the benefit of the township; *provided*, that nothing in this act shall conflict in anywise with the corporate rights of any incorporated village, town or city.

An Act to prevent the spread of glanders in horses.

Approved March 31, 1864.

1. Hereafter, if complaint be made to any justice of the peace of this State, verified by the oath or affirmation of the complainant, that any person or persons, body politic or corporate, have in his, her or their possession any horses, mares, geldings, asses or mules having in or upon them the disease known by the name of "glanders," to order an inquiry and examination to be made of the condition of such horses, mares, geldings, mules or asses, under the supervision of some competent and skillful veterinary surgeon; and if by the report of the said surgeon it shall be made to appear to the satisfaction of the said justice that such horse or horses, mare or mares, gelding or geldings, mule or mules, ass or asses as is or are mentioned in the said complaint is or are diseased with glanders, by his warrant, directed to the owner or owners or person or persons having the same in possession, forthwith to destroy such horse or horses, mare or mares, gelding or geldings, mule or mules, ass or asses.

2. Any person or persons who shall sell, expose to sale, or keep in his or their possession, or keep or suffer to be kept on his or their premises, or lead, drive or bring into any street, road or public place any horse or horses, mare or mares, gelding or geldings, mule or mules, ass or asses afflicted with glanders, knowing such horse or horses, mare or mares, gelding or geldings, mule or mules, ass or asses to be so afflicted, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not less than one hundred dollars and not exceeding five hundred dollars, or by imprisonment in the State Prison not less than one month and not exceeding one year, or both, at the discretion of the court.

Gen. Stat., p. 55.

When horses having glanders may be destroyed.

Penalty for keeping horses afflicted with glanders.

Supplement.

Approved March 12, 1884.

1. That in the event of the disease called by the name of "glanders," being known or suspected to exist in any locality of this State, it shall be the duty of all persons owning or having any interest in or having in their possession or under their control any horse or horses, mare or mares, gelding or geldings, ass or asses, mule or mules, having in or upon them, or being suspected to have in or upon them, such disease, forthwith to notify the local board of health or any member thereof that such disease exists, or is suspected to exist, and thereupon it shall be the duty of the said board of health to notify the State Board of Health, or some one designated by them, to investigate the same and quarantine said animal or animals and the premises where they are kept and take such other precau-

Gen. Stat., p. 55.

Duty of persons to notify local board of health of existence of disease called glanders.

State Board of Health to be notified to investigate, etc.

tionary measures as to any animal or animals sick, or as to other animals that have been or are in proximity thereto, as shall be deemed necessary, and to enforce such regulations as are provided for in the law to which this is a supplement or such additional regulations as in the judgment of said State Board of Health the exigencies of the case may seem to require, or if said board or any members thereof, without notification, shall have any reason to believe that the said disease exists in or among any animals in this State, it shall have the same power of inquiry and examination and the same rights of jurisdiction as are herein provided where there has been notification by the owner or person having interest in or possession or control of such animals.

State board may call upon local boards to discover cases of glanders. Proceedings by State board to quarantine animals.

2. That the said State Board of Health may call upon local boards of health to discover cases of the disease known by the name of "glanders" and to aid in provisions for their abatement.

3. That for the purpose of quarantining animals the said State Board of Health or its representatives may take and retain in their control property, real and personal, of the owner or person having interest in or possession or control of such sick animal or animals to the extent and for the time necessary in the judgment of said State Board of Health or its said representatives to prevent the spread of such disease.

Animals diseased with glanders to be destroyed, etc.

4. That the said State Board of Health, or any member thereof, whenever satisfied that any horse or horses, mare or mares, gelding or geldings, ass or asses, mule or mules is or are diseased with glanders, shall cause the same to be immediately destroyed, and all places in which said animal or animals have been kept to be cleansed and disinfected and kept under quarantine until considered safe.

Penalty for refusing or neglecting to notify State board of existence of disease.

5. That any person or persons refusing or neglecting to notify said board of health or a member thereof of the existence or suspected existence of the said disease known by the name of "glanders" among any of the animals aforesaid, shall be deemed and adjudged guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment not exceeding one year, or both, at the discretion of the court.

Who to determine amount to be allowed for services required by act.

6. That the Governor, the Secretary of State and the Comptroller shall determine the amount to be allowed to said board, or any member thereof, for services in the oversight and execution of all things in and by this act required to be done.

An Act concerning contagious and infectious diseases among animals and to repeal certain acts relating thereto.

Gen. Stat., p. 50.

Approved May 4, 1886.

Owners of animals infected to notify State Board of Health.

1. That in case any contagious or infectious disease shall appear or be suspected to exist in any locality in this State, it shall be the duty of all persons owning or having any interest in animals infected or supposed to be infected, and of any person having knowledge or suspicion thereof, at once to notify

the State Board of Health, or some officer or member of said board, of the facts, and it shall be the duty of the said board, upon receiving such information, or any information in regard thereto, to investigate the same, or cause the same to be investigated, and if any such disease is found to exist, or likely to break out, to quarantine such animal or animals, and to take such precautionary measures with relation to other animals exposed to such disease as shall be deemed necessary, and to enforce such regulations in relation to such diseases as the said board may adopt.

Board authorized to quarantine, etc.

2. That whenever in the judgment of the said board, its agents or appointees, it shall appear that such disease is not likely to yield to remedial treatment, or that the expense of such treatment will be greater than the value of the animal or animals infected; and when in any case such disease is likely in the judgment of said board, its agents or appointees, to be communicated to other animals, they shall cause the animals infected to be immediately slaughtered, their remains to be buried at least four feet beneath the surface of the ground, and all places in which the same have been kept to be thoroughly cleansed and disinfected.

When State board may cause infected animals to be slaughtered and buried.

3. That when any animal or animals shall be slaughtered as directed in the preceding section, the value of the same may, at the request of said board or any person interested, be ascertained and appraised by three disinterested freeholders resident in this State, who shall make and sign a certificate thereof, in the presence of a witness who shall attest the same; such appraisement shall be made on the basis of the market value of the animal or animals slaughtered, just prior to the time when they became so diseased, and shall be limited to the sum of one hundred dollars for registered animals, and to forty dollars for all others; one-half of the valuation so ascertained shall be paid by the State on the presentation of such certificate, with the approval of the said board indorsed thereon, to the owner or owners.

Value of animals slaughtered, how ascertained and appraised.

4. That when any herd or portion thereof has been or is so exposed to any contagious or infectious disease, and the State Board of Health deem the disease likely to spread to that portion of the herd still unaffected, although isolated or quarantined, said herd may, with the consent of the owner or owners, and with the restrictions agreed upon between them and the executive officer of the State Board of Health, cause or allow said herd or herds to be inoculated for the prevention of such diseases as can be thus mitigated; but any loss resulting from such inoculation shall not constitute any claim against the State or the board of health; *provided*, that inoculation for pleuro pneumonia shall in no case be allowed without the consent and approval of the State Board of Health, and shall be made under its direction.

Limitation of value, and by whom paid.

State board may cause herds to be inoculated to prevent spread of disease. etc.

Proviso.

5. That when any city, township or district shall be threatened with any contagious or infectious disease among animals to such an extent as to seem to require more general precau-

State board to notify local boards of threatened contagious diseases, etc.

May prohibit bringing of cattle without inspection, and running at large, etc.

Unlawful for owners to add any animals to herd in quarantine.

Penalty.

Penalty for refusing or neglecting to notify board of contagious diseases.

Penalty for buying or selling animals affected with contagious diseases.

When impossible to bury dead animals, board may authorize disposal.

Penalty for disposing of dead animals for food.

tions, the State Board of Health shall notify the local board of health, and, with the advice and consent of the local board of health, may for a time prohibit the bringing of any cattle into such city, township or district without inspection and a written permission, and may prohibit the running at large of animals in any township, if not already prohibited by law, for such time as the township board of health shall advise; and the State Board of Health may call upon local boards of health to discover and report cases of contagious disease and aid in measures for its abatement and prevention.

6. That when any animal or herd of animals is held in quarantine under authority given by the laws of this State to the State Board of Health, it shall not be lawful for the owner or keeper thereof to add any animals to such herd by purchase or otherwise, without the written consent of said board, under penalty of being adjudged guilty of a misdemeanor, and fined therefor to an amount not exceeding one hundred dollars.

7. That any person or persons refusing or neglecting to notify said board of health, or any one of them, of the existence of pleuro pneumonia, rinderpest, or any other contagious or infectious disease among animals, shall be deemed and adjudged guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than two hundred dollars, or by imprisonment not exceeding one year, or both, at the discretion of the court; and that if any person or persons shall knowingly buy or sell, or cause to be bought or sold, any animal or animals affected with the pleuro pneumonia, rinderpest, or any other contagious or infectious disease, or that has been exposed to a contagious or infectious disease, or is a part of any herd or stock held in quarantine, all such person or persons shall be deemed and adjudged guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding two hundred dollars, or imprisonment not exceeding one year, or both, at the discretion of the court. (a)

8. That when, by reason of the locality of an infected animal or herd within a city, or by reason of frozen ground or extreme heat, it is, in the judgment of the State Board of Health, or those acting under its authority, inexpedient or impossible to bury any such dead or slaughtered animals on the premises, the board may authorize any veterinarian acting for said board to slash the skin and cut the flesh of the same, and, either under his direct oversight, or that of a city board of health, or contractor for the disposal of dead carcasses, to give over the same to the use of a bone-boiling or glue or other establishment for the disposal of dead animals, but in no case shall the same, or any part thereof, be disposed of for food, and any such disposal of the same shall make the party or parties concerned guilty of a misdemeanor and punishable by a fine not to exceed one hundred dollars, or imprisonment in the county jail for a period not exceeding six months.

(a) See *Hess v. State*, 16 Vr. 445.

9. That if, between the first day of October and the first day of May of any year, a veterinarian who has been regularly graduated in veterinary medicine, desires to make a post-mortem examination of any animal he has attended, or at the request of the owner of any animal that has died within the city limits, he may do so, if such examination is made within twenty hours of the death or slaughter of said animal; in every such case he shall notify the city scavenger, or remover of carcasses of animals, of the hour of his examination, and said scavenger shall arrange to remove the carcass in not more than three hours after the beginning of said examination.

Post-mortem examination may be made between certain dates.

10. That it shall be the duty of the State Board of Health to keep a full and complete record of all the proceedings under this act, and report the same annually to the State Board of Agriculture, and such report shall be printed in and form a part of the annual report of said board of agriculture.

Carcass to be removed, etc.

State Board of Health to keep record and report annually.

11. That the sum of two thousand dollars is hereby annually appropriated to the State Board of Health to defray the expenses of the said board in the duties imposed by this act, and that the Governor, Secretary of State and the Comptroller be and they are hereby authorized to determine what sum annually shall be allowed to said board or any member thereof for services in the oversight and execution of the duties hereby imposed, but the amount allowed shall not exceed the sum of five hundred dollars in any one year.

Annual appropriation.

12. That if, on account of the prevalence of any contagious disease of animals, or the necessary guarding against the same, any greater expenditure shall seem to be required, the State Board of Health shall present the facts to the Governor, the Secretary of State and the Comptroller, who shall authorize such additional amount as they may think necessary, but in no case shall the yearly amount thus authorized to be expended exceed five thousand dollars.

Amount allowed for services and by whom determined.

Additional amount may be authorized in case of prevalence of contagious diseases.

13. That all bills for money expended under this act shall be audited by the Comptroller of this State, and then submitted to the Governor for his approval, and after being thus audited and approved by the Governor, shall be paid by the State Treasurer upon warrant of the Comptroller.

Bills for money expended, by whom approved and paid.

Supplement.

Approved May 16, 1893.

1. That the local board of health of any city of this State shall by ordinance require, from time to time, a registry of all cattle kept within the limits of said city, which registry shall state the place of keeping, the number in each case kept, and the number of these intended, or used, as milch cows; and it shall be the duty of the owner of any such cattle to make registry thereof at the time, place and in the manner that the board of health of said city may direct, under a penalty not exceeding fifty dollars for any neglect of the same; *provided*, that no such registry shall be made by any board of health until after the

Gen. Stat., p. 53.

Registry of cattle to be kept in cities.

Duty of owners of cattle.

Penalty.
Proviso.

examination of the stables and place in which said cattle are kept, and until it is known to the satisfaction of said board that they are in good sanitary condition.

When inspection shall be ordered.

2. That whenever any local board of health of any city shall have reason to suspect the existence of any contagious disease among cattle, or such as may be a risk or danger to the food or milk supply, or whenever they may deem it necessary, in order to prevent the occurrence of such risk or danger, they shall order the inspection of all cattle that are kept or intended for meat or milk production, by a competent veterinarian chosen by them, and may for such inspection require so much payment for such service as may be necessary for the expenses attending such inspection; *it being, however, provided*, that in no case shall the amount charged exceed fifty cents a head per year for dairies of ten cows or under, and for all dairies above ten cows, twenty-five cents per head per year; *provided, further*, that no charge shall be made against anyone keeping a single cow for family use.

Payment of expenses.

When State Dairy Commissioner shall be notified, and his duties.

3. That whenever any local board of health, or any veterinary inspector appointed by said board shall find or suspect any disease in any cow, or in any herd of milk-producing cattle, which may prove harmful to the meat or milk supply, the State Board of Health and the State Dairy Commissioner shall be notified, and it shall be the duty of the Dairy Commissioner to investigate the same, and he shall prohibit the sale or use of the milk from any such milch cow, but he, or the owner of said milch cow, may ask, through the State Board of Health, a report from some veterinarian appointed by the State Board of Health as to whether, or how long, it will be necessary to continue the prohibition of the use of said milk, and the Dairy Commissioner or the State Board of Health may prohibit the use of said milk or of meat of any animal declared by a veterinarian of the State Board to be unfit for use.

LICENSING OF MILK DEALERS.

An Act to provide for the licensing and regulating of milk dealers and their agents in cities, incorporated boroughs, or police, sanitary and improvement commissions, and incorporated camp-meeting associations or seaside resorts.

Gen. Stat., p. 2235.

Appointment of milk inspectors, etc.

Approved March 10, 1882.

1. That it shall be lawful for the common council, board of aldermen or other governing body of any city, incorporated borough, police, sanitary or improvement commission, incorporated camp-meeting association or seaside resort, to provide for the appointing of a milk inspector or of milk inspectors for their respective municipal corporations, to prescribe their duties and to fix their salaries, and further to provide for the licens-

ing and regulating of all persons engaged, either as principals or as agents, in the sale of milk within their respective corporate limits, and to require as a prerequisite to engaging in such business a yearly license fee, to be paid by the person, firm or corporation conducting said business.

Licenses to
milk sellers,
etc.

2. That each license shall allow the person, firm or corporation licensed, or his or their agent or agents named in such license, to sell milk within the corporate limits of the municipal corporation granting the license from one store or stand, from one cart or wagon, or from one pail or other receptacle carried in the hand; *provided*, that nothing herein contained shall limit the number of licenses which may be granted to any person, firm or corporation.

Effect of
license.

Proviso.

3. That the aforesaid municipal corporations shall have power to fix and establish fines and penalties, not exceeding fifty dollars for each offense, for the selling of milk without a license, and for the violation of any rule, regulation or ordinance established for the regulating of the sale of milk within their respective corporate limits; and that such fines and penalties shall be recovered as other fines and penalties are or may be recovered in the respective municipal corporations.

Fines and
penalties.

4. That at least two-thirds of the sum collected in any municipal corporation in one year from milk license fees shall in that year be expended in paying the salaries and expenses of a competent inspector or competent inspectors of milk for said municipal corporation.

Sum collected
from license
fees, how
expended.

5. That it shall be the duty of each inspector, in addition to the duties imposed upon him by the municipal corporation appointing him, to keep a complete record of all his daily doings and proceedings as inspector, giving a full account of each inspection or examination of milk made by him, including the name of the person, firm or corporation owning or claiming to own the milk inspected, the names of the agents in charge, the place and manner in which the said milk was offered for sale, together with the results of each test and analysis; that said records shall be the property of the respective municipal corporations and shall at all times be subject to their control.

Powers and
duties of
milk in-
spector.

6. That it shall be the duty of each inspector to make complaint against all persons discovered by him in the violation of any rule, regulation or ordinance which may be passed in conformity to the provisions of this act.

Inspector to
make com-
plaint
against per-
sons violat-
ing regula-
tions, etc.

7. That each inspector appointed by a municipal corporation shall have the same power, authority, rights and privileges, and shall perform the same duties within the corporate limits of the municipal corporation for which he is appointed as are now or may hereafter be possessed and performed by the State Inspector of Milk; *provided*, that all penalties collected in any suit instituted by him under the laws of this State governing and regulating the adulteration of milk and the sale of milk, shall be paid into the treasury of the municipal corporation for which he acts, and the expense of such suits shall be borne by said municipal corporation.

Inspector to
have same
power and
authority as
State in-
spector.

Proviso.

Persons twice convicted of violating State law not allowed to sell milk within two years and license to be void.

Repealer.

8. That no person twice convicted of knowingly violating the State law governing the sale of milk or the adulterating of milk, shall, for the space of two years, be allowed to conduct or be engaged in the business of selling milk within any municipal corporation in this State; that his license, if he have one, shall be void, and no new license shall be granted to him for the space of two years.

9. That all other acts and parts of acts authorizing the imposition of a license fee upon any person engaged in the milk business, and all acts and parts of acts inconsistent with this act, be and the same are hereby repealed.

REFUSE DISPOSAL.

An Act concerning the cremation of garbage, and authorizing the acquisition of lands and the erection of crematories thereon in the cities of this State.

Approved February 20, 1895.

Gen. Stat., p. 801.

Governing body may purchase lands and erect and equip crematory.

1. That whenever, in the opinion of the common council, board of aldermen, or other governing body having charge of the streets of any city of this State, it shall be necessary to cremate the garbage and other refuse collected in such cities, it shall be lawful for such common council, board of aldermen or other governing body to purchase, in the corporate name of the city, all necessary lands and real estate in such city, and to erect thereon a building or buildings, and equip the same with all appliances necessary and suitable for the cremation of such garbage and refuse matter.

May issue bonds to provide for payment.

2. That to provide moneys necessary to pay for such lands and real estate, and the erection and equipment of such buildings, it shall be lawful for such common council, board of aldermen or other governing body having charge and control of the finances of such city, to issue bonds in the corporate name of the city, not exceeding the amount required to be paid for said lands and real estate and the erection and equipment of such buildings, pledging for the redemption thereof the faith of said city, under the seal of the city, signed in the manner prescribed by law, and attested by the city clerk, of such denominations as said common council, board of aldermen or other governing body shall deem fit, bearing interest at a rate not exceeding five per centum per annum, and redeemable in not more than twenty years from the date of issue, and to dispose of the same for the best price that can be obtained, but at not less than par value, and to provide for the redemption thereof and the payment of the interest thereon by taxation.

May contract with private parties for cremating garbage, etc.

3. That if, in the opinion of the common council, board of aldermen or other governing body having control of the streets of such city, it is more advantageous for such city to have such

garbage and other refuse matter cremated by persons other than the city authorities, and at crematories not owned by the municipal corporation, it shall be lawful for such common council, board of aldermen or other governing body to make a contract or contracts, not exceeding the term of five years at a time, with any corporation or individual for the cremation of such garbage and other refuse matter, and it shall be the duty of such common council, board of aldermen or other governing body having charge of the finances of such city, during the continuance of such contract or contracts, to annually raise by taxation, the sum needed to defray the expense of such collection and cremation for the fiscal year then next ensuing.

May levy taxes to pay expenses thereof.

An Act authorizing municipalities of this State to grant franchises for the erection, establishment, operation and maintenance within their corporate limits, for a term of years, of a crematory for the cremation and incineration of refuse, garbage, dead animals, night soil and other waste matters or substances.

Approved March 23, 1900.

P. L. 1900, p. 198.

1. All municipalities of this State, however created or governed, shall have authority to grant to any person or corporation a franchise for the erection, establishment, operation and maintenance within their corporate limits for a term not exceeding twenty years of a crematory for the cremation and incineration of refuse, garbage, dead animals, night soil and other waste matters or substances; such franchises shall be granted by resolution upon such terms and conditions as to the governing body of said municipality may appear.

2. Said franchise shall not become operative in any respect until an acceptance in writing thereof shall have been filed by said person or corporation to whom said franchise may be granted, with the clerk of said municipality, which acceptance shall be filed within three months from the granting of said franchise.

Acceptance necessary.

3. The powers and privileges herein conferred are in addition to and not in lieu of any of the powers and privileges conferred by any laws creating or affecting any of said municipalities.

Additional powers granted municipality.

An Act to amend an act entitled "An act concerning the collection, removal and disposal of ashes and garbage in cities of this State and providing for the payment of the cost thereof," approved March ninth, one thousand eight hundred and ninety-six.

1902.

P. L. 1902, p. 200.

Approved March 1902.

Section amended.

1. Section one of the act to which this is an amendment be and hereby is amended so as to read as follows:

1. It shall and may be lawful for the common council, board of aldermen or other governing body having charge of the streets of any city of this State, to enter into and make a con-

Make contract for disposing of ashes and garbage.

Proviso.

tract or contracts, not exceeding the term of five years at a time, with any corporation or individual for the collection or removal of ashes and the collection, removal and disposal of garbage, and it shall be the duty of such common council, board of aldermen or other governing body of such city, during the continuance of such contract or contracts, to annually raise, by taxation, the sum needed to defray the expenses of such collection and removal of ashes and such collection, removal and disposal of garbage for the fiscal year then next ensuing; *provided*, such contract or contracts shall be entered into and made only after bids therefor shall have been advertised for in one or more newspapers published or circulating in said city for at least two weeks prior thereto, and then only with the lowest responsible bidder or bidders who shall give satisfactory bonds or security for the faithful performance of the work.

An Act to amend an act entitled "An act concerning corporations (Revision of 1896)," approved April twenty-first, eighteen hundred and ninety-six.

P. L. 1907, p. 25.

Section amended.

Association for business purposes lawful.

Approved March 26, 1907.

1. Section six of the act to which this is an amendment is hereby amended to read as follows:

6. Upon executing, recording and filing a certificate pursuant to all the provisions of this act, three or more persons may become a corporation for any lawful purpose or purposes whatever, other than a savings bank, a building loan association, an insurance company, a surety company, a railroad company, a telegraph company, a telephone company, a canal company, a turnpike company, or other company which shall need to possess the right of taking and condemning lands in this State, or other than a corporation provided for by "An act concerning banks and banking [Revision of 1899]," or by "An act concerning trust companies [Revision of 1899]," or by "An act concerning safe deposit companies [Revision of 1899]." It shall, however, be lawful to form a company hereunder for the purpose of constructing, maintaining and operating railroads, telephone or telegraph lines outside of this State; *provided, that any company organized under the provisions of this act for cremation purposes shall, before beginning business, file a certified copy of its certificate of incorporation with the State Board of Health and obtain from said board a license to carry on said business, under such rules and regulations as said board may prescribe.*

Proviso ; cremation companies to file copy of certificate.

MEDICAL INSPECTION OF SCHOOLS.

An Act to amend an act entitled "An act to establish a thorough and efficient system of free public schools and to provide for the maintenance, support and management thereof," approved October nineteenth, nineteen hundred and three.

Approved April 12, 1906.

Section one hundred and twenty-one of said act shall be amended so as to read as follows:

121. A board of education may exclude from school any teacher or pupil who shall not have been successfully vaccinated or revaccinated, unless such teacher or pupil shall present a certificate signed by a regularly licensed physician that such teacher or pupil is an unfit subject for vaccination; *provided*, that in any district having a medical inspector appointed by the board of education the certificate hereinbefore provided for shall be furnished by such medical inspector. No teacher or pupil who shall be a member of a household in which a person shall be ill with small-pox, diphtheria, scarlet fever, whooping cough, yellow fever, typhus fever, cholera, measles or such other contagious or infectious disease as may be designated by the board of education, or of a household exposed to contagion as aforesaid, shall attend any public school during such illness, nor until the board of education shall have been furnished with a certificate from the board of health, or from the physician attending such person, or from a medical inspector, certifying that all danger of communicating such disease by such teacher or pupil has passed.

122. In case any pupil enrolled in a public school shall be found to be unvaccinated, whose parents shall be in the judgment of the board of education unable to pay for the vaccination of such pupil, the district clerk or secretary of the board of education may give to said pupil a permit to appear before any regularly licensed physician to be vaccinated, and such physician, on presenting said permit with his certificate appended thereto that the vaccination has been by him successfully performed, shall receive from the township, city, incorporated town, borough or other municipality in which said pupil shall reside the sum of fifty cents.

123. Whenever the board of health of any township, city, incorporated town, borough or other municipality shall declare any epidemic or cause of ill-health to be so injurious or hazardous as to make it necessary to close any or all of the public schools in such township, city, incorporated town, borough or other municipality, said board shall immediately serve notice on the board of education of the school district situate in said township, city, incorporated town, borough or other municipality that it is desirable to close said school or schools. Upon receipt of such notice such board of education may close the

P. L. 1906, p. 168.

Original act, P. L. 1904, p. 5.

Section amended.
Vaccination.

Proviso.

Teachers or pupils exposed to contagious disease shall not attend school.

Vaccination at public expense.

Schools closed during epidemic.

schools under its control, or such of them as may be designated by the board of health, and said schools shall not be reopened until said boards of education shall be satisfied that all danger from said epidemic or cause of ill-health has been removed.

Medical
inspector;
duties.

229. Every board of education may employ a competent physician to be known as the medical inspector, fix his salary and define his duties. Said medical inspector shall visit the schools in the district in which he shall be employed at stated times to be determined by the board of education, and during such visits shall examine every pupil referred to him by a teacher. He shall at least once during each school year examine every pupil to learn whether any physical defect exists, and keep a record from year to year of the growth and development of such pupil, which record shall be the property of the board of education and shall be delivered by said medical inspector to his successor in office. Said inspector shall lecture before the teachers at such times as may be designated by the board of education, instructing them concerning the methods employed to detect the first signs of communicable disease and the recognized measures for the promotion of health and prevention of disease. The board of education may appoint more than one medical inspector.

A Supplement to an act entitled "An act concerning disorderly persons (Revision of 1898)," approved June fourteenth, one thousand eight hundred and ninety-eight.

P. L. 1903, p.
761.

Spitting in
cars a mis-
demeanor.

Proviso.

Approved April 14, 1903.

1. Any person who shall expectorate or spit on the floor, side, seat or platform of any railroad or railway passenger car in this State, shall be deemed and adjudged to be a disorderly person; *provided*, that nothing herein contained shall apply to smoking-cars or compartments of cars where smoking is permitted when said smoking-cars or smoking compartments are not provided with cuspidors.

An Act concerning the distribution of medicinal preparations, advertisements and circulars, and regulating and prohibiting the same.

P. L. 1904, p.
202.

Ordinance
regulating
distribution
of medicine
and medical
circulars.

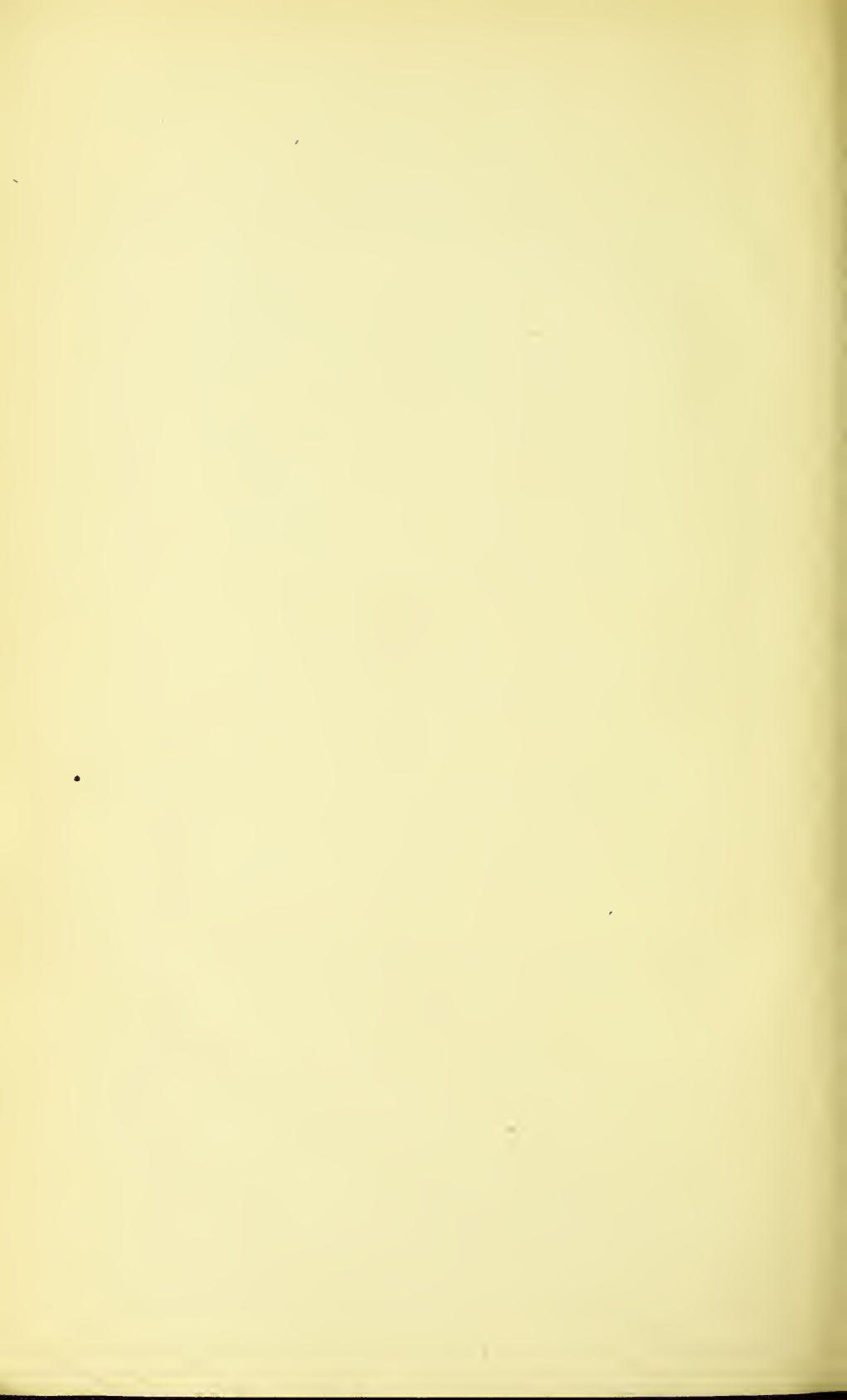
Proviso.

Approved March 28, 1904.

1. It shall be lawful for the common council or other governing body of any city, town, township, borough or other municipality within this State, by ordinance, to regulate and prohibit the distribution, depositing or leaving on the public streets, highways, public places, or on private property, or in any private place or places within any such municipality, any medicine, medicinal preparation or preparation represented to cure ailments or diseases of the body or mind, or any samples thereof or any advertisements or circulars relating thereto; *provided*, *however*, that such municipality shall not be authorized to pro-

hibit a delivery of any such article by handing the same to any person above twelve (12) years of age willing to receive the same.

2. It shall be lawful for any such municipality, in and by any such ordinance, to provide for the imposition of a penalty of fifty dollars for any violation thereof. Penalty.



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